

AMENDED IN SENATE AUGUST 19, 2013

AMENDED IN SENATE JULY 11, 2013

AMENDED IN SENATE JUNE 26, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1062**

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**Introduced by Assembly Member Jones-Sawyer**

February 22, 2013

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An act to amend Section 17604 of the Family Code, to amend Sections 7299.4, 7299.5, 18502, 18525.3, 18527, 18528, 18532.1, 18533, 18540, 18544, 18575, 18654, 18654.5, 18655, 18661, 18670, 18671.1, 18672, 18674, 18676, 18681, 18682, 18804, 18900, 18900.5, 18900.6, 18903, 18931, 18933, 18934, 18936, 18937, 18938.6, 18950, 18950.1, 18951, 18975, 18976, 19050.4, 19057.1, 19057.2, 19058, 19059, 19062.5, 19082, 19101, 19140, 19140.5, 19141.1, 19143, 19170, 19200, 19253, 19253.5, 19257.5, 19400, 19401, 19402, 19403, 19405, 19574.2, 19582, 19586, 19630, 19680, 19682, 19703, 19763, 19764, 19770, 19775, 19775.1, 19775.8, 19775.9, 19776, 19786, 19793, 19798, 19800, 19801, 19802, 19802.5, 19803, 19804, 19805, 19806, 19807, 19808, 19809, 19815, 19815.6, 19816.6, 19816.12, 19818.14, 19822.5, and 19822.7 of, to add Section 19811 to, to repeal Sections 18538.1, 18807, 18972, 19583.51, 19816, 19818.2, 19818.4, and 19889.4 of, and to repeal and add Sections 18935, 18940, 18941, and 19052 of, the Government Code, and to amend Section 13601 of the Penal Code, to amend Sections 10605 and 10801 of the Welfare and Institutions Code, relating to human resources.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1062, as amended, Jones-Sawyer. Human resources.

Existing law provides that the Department of Human Resources succeeds to and is vested with all of the powers and duties exercised and performed by the Department of Personnel Administration and powers, duties, and authorities necessary to operate the state civil service system in accordance with Article VII of the California Constitution, the Government Code, the merit principle, and applicable rules duly adopted by the State Personnel Board.

This bill would transfer certain functions and duties of the board to the department. The bill would also designate the department to share certain functions and duties with the board. The bill would make other related changes.

Existing law, with regard to the civil service, requires the appointing power to provide service of notice of certain actions, including a disciplinary action, a rejection during probation, a medical action, and various termination actions, by personal service or by mail or express service carrier, pursuant to a specified process.

The bill would modify the above-mentioned process by deleting certain requirements and would instead require service to be conducted in the manner provided in specified provisions of the Code of Civil Procedure that relate to service of process.

Existing law authorizes the State Personnel Board to hold hearings and make investigations concerning all matters relating to the enforcement and effect of the State Civil Service Act, as specified. Existing law prohibits the board from holding hearings and making investigations on certain disciplinary matters relating to state employees in State Bargaining Unit 5.

This bill would delete the above-mentioned prohibition.

Existing law requires, among other things, the board to render its decision within a reasonable time after the conclusion of a hearing or investigation, except that the period from the filing of the petition to the decision of the board cannot exceed 6 months or 90 days from the time of the submission, whichever time period is less, and except that the board may extend the 6-month period up to 45 additional days.

This bill would instead require the board to reach a decision within 6 months and would delete the board's authorization to extend the 6-month period by 45 additional days.

Existing law requires the State Personnel Board, by resolution, to define the term “salary step” for the purpose of administering civil service laws and rules that control movement of employees between classifications subject to specified requirements.

This bill would repeal these provisions.

Existing law authorizes the State Personnel Board to require various types of documentary evidence in establishing minimum qualifications for determining the identity, fitness, and qualifications of employees for each class of position in the state civil service, for temporary appointments, and for applicants for examination.

This bill would revise these provisions and would additionally require, whenever the law requires that an applicant for a position as a peace officer be screened to ensure that the applicant is free from emotional and mental impairment, that the department or the designated appointing authority undertake the screening subject to the applicant’s right to appeal to the board.

Existing law authorizes the department to refuse to examine or, after examination, to refuse to declare as eligible, or to withhold or withdraw from certification, prior to appointment, anyone who, among other things, is physically or mentally so disabled as to be rendered unfit to perform the duties of the position to which he or she seeks appointment or who is addicted to the use of controlled substances.

This bill would instead authorize the department or a designated appointing power to refuse to examine, or after examination to refuse to declare as eligible, or to withhold or withdraw from an eligible list, before the appointment, anyone who, among other things, was found to be unsuited or not qualified for employment pursuant to rule.

Existing law authorizes an applicant for state employment to elect to avail himself or herself of a specified procedure to take an examination on a different date when the examination is scheduled to be given during the period from sundown on a Friday until sundown on the following day, and it is the practice of an applicant, based upon his religious convictions, to observe the Sabbath during that period.

This bill would repeal these provisions and would instead authorize any applicant for examination to request reasonable accommodation for a disability or sincerely held religious belief pursuant to the Fair Employment and Housing Act or any other applicable law.

Existing law requires the board to provide, by rule, for grant of a blanket waiver of a requirement that would allow a dismissed employee who meets standards to be determined by the board to apply for any

civil service examination so that he or she would not need a separate waiver for each examination.

This bill would repeal these provisions. The bill would authorize any former state employee who was dismissed from state service, as specified, to petition the department to be permitted to take a civil service examination in order to establish eligibility for appointment to state service, as specified.

Existing law requires the appointing power to submit to the department, in accordance with board rules, a statement of the duties of the position, the necessary and desired qualifications of the person to be appointed, and a request that the names of persons eligible for appointment to the position be certified whenever a vacancy in any position is to be filled and not by transfer, demotion, or reinstatement.

This bill would instead require the appointing power to provide any information the department requests including the classification of the position, the number of vacancies to be filled, the tenure and time base of the position, the location of the position, and any other information as the department may require.

Existing law permits any person, except for a current ward of the Division of Juvenile Facilities, a current inmate of the Department of Corrections, or a current patient of a facility operated by the State Department of State Hospitals, with the consent of the State Personnel Board of the appointing power, to file charges against a state employee in State Bargaining Unit 5 requesting that adverse action be taken for one or more causes for discipline, as specified.

This bill would repeal these provisions.

Existing law requires the board to either grant or deny a petition for rehearing a decision within 60 days after service of notice of filing the petition for rehearing.

This bill would instead require the board to either grant or deny a petition within 90 days.

Existing law prohibits a person from bringing a cause of action of any type, as specified, based on or related to any civil service law in this state, or the administration thereof, unless that action is commenced and served within one year after the cause of action first arose. Existing law also provides that where an appeal is taken from a decision of the board, the cause of action does not arise until the final decision of the board has been issued.

This bill would instead require any petition for a writ challenging a decision of the board to be filed within 6 months of the date of the final decision of the board.

Existing law establishes certain rights and benefits that accrue to civil service employees during and after leave for military service, including, but not limited to, appointment and reinstatement rights. Existing law requires that both the State Personnel Board and the Department of Human Resources be responsible for carrying out certain provisions related to leave for military service.

This bill would delete the provisions that require both the State Personnel Board and the Department of Human Resources to be responsible for carrying out certain provisions related to leave for military service.

Existing law authorizes the board, for specific state services or employments, in examination allow general or individual preference in ratings to veterans who have suffered permanent disability in the line of duty, if the disability will not prevent the proper performance of the duties required under the service or employment, and if the disability is of record in the files of the United States Veterans' Administration.

This bill would repeal those provisions.

Existing law requires the State Personal Board to submit a census report to the Governor, the Legislature, and the Department of Finance that includes, among other things, demographic information on employees in the state civil service, as specified, and information to the Legislature on laws that discriminate or have the effect of discriminating on the basis of race, ethnicity, gender, and disability.

This bill would instead require the department to either submit the report to the Governor, the Legislature, and the Department of Finance or to post the data on its Internet Web site. The bill would also delete the requirement that the report include, among other things, identified underutilizations, steps taken to ensure equal employment opportunity in the state civil service, and information to the Legislature on laws that discriminate or have the effect of discriminating on the basis of race, ethnicity, gender, and disability.

Existing law provides that the department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the California Victim Compensation and Government Claims Board, the Department of General Services, and the Department of Finance, as specified.

This bill would repeal those provisions.

Existing law authorizes the department to designate an appointing power to allocate positions to the Personal Classification Plan, as specified. Existing law authorizes the department to audit any position allocations and to order corrective action.

This bill would instead authorize the department to order corrective action, as specified, only if it finds that an appointing power has allocated positions inappropriately. The bill would also authorize the Department of Finance to transfer a sufficient number of personnel from the appointing power to the department, as specified, if an appointing power's allocation authority is revoked.

Existing law requires every state agency, as specified, to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person. Existing law requires each agency to conduct a survey, related to its bilingual services, of each of its local offices every two years to determine among other things, the number of qualified bilingual employees in public contact positions, as specified. Existing law requires, beginning in 2009 and in every odd-numbered year thereafter, that each state agency develop an implementation plan that, at a minimum, addresses, among other things, the name, position, and contact information of the employee designated by the agency to be responsible for overseeing implementation of the plan.

This bill would require the language survey to also include, among other things, a detailed description of the agency's procedures for identifying written materials that are required to be translated, a detailed description of the agency's procedures for identifying language needs at local offices and assigning qualified bilingual staff to those offices, and a detailed description of how the agency complies with any federal or other state laws that require the provision of linguistically accessible services to the public. The bill would instead only require each agency that serves a substantial number of non-English-speaking people who comprise 5 percent or more of the people served to develop an implementation plan, as specified, in every odd-numbered year.

This bill would also make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 17604 of the Family Code is amended  
2 to read:

3     17604. (a) (1) If at any time the director considers any public  
4 agency, that is required by law, by delegation of the department,  
5 or by cooperative agreement to perform functions relating to the  
6 state plan for securing child and spousal support and determining  
7 paternity, to be failing in a substantial manner to comply with any  
8 provision of the state plan, the director shall put that agency on  
9 written notice to that effect.

10     (2) The state plan concerning spousal support shall apply only  
11 to spousal support included in a child support order.

12     (3) In this chapter the term spousal support shall include support  
13 for a former spouse.

14     (b) After receiving notice, the public agency shall have 45 days  
15 to make a showing to the director of full compliance or set forth  
16 a compliance plan that the director finds to be satisfactory.

17     (c) If the director determines that there is a failure on the part  
18 of that public agency to comply with the provisions of the state  
19 plan, or to set forth a compliance plan that the director finds to be  
20 satisfactory, or if the state certifies to the director that the public  
21 agency is not in conformity with applicable merit system standards  
22 under Part 2.5 (commencing with Section 19800) of Division 5 of  
23 Title 2 of the Government Code, and that sanctions are necessary  
24 to secure compliance, the director shall withhold part or all of state  
25 and federal funds, including incentive funds, from that public  
26 agency until the public agency shall make a showing to the director  
27 of full compliance.

28     (d) After sanctions have been invoked pursuant to subdivision  
29 (c), if the director determines that there remains a failure on the  
30 part of the public agency to comply with the provisions of the state  
31 plan, the director may remove that public agency from performing  
32 any part or all of the functions relating to the state plan.

33     (e) In the event of any other audit or review that results in the  
34 reduction or modification of federal funding for the program under  
35 Part D (commencing with Section 652) of Subchapter IV of Title  
36 42 of the United States Code, the sanction shall be assessed against  
37 those counties specifically cited in the federal findings in the  
38 amount cited in those findings.

1 (f) The department shall establish a process whereby any county  
2 assessed a portion of any sanction may appeal the department's  
3 decision.

4 (g) Nothing in this section shall be construed as relieving the  
5 board of supervisors of the responsibility to provide funds  
6 necessary for the continued operation of the state plan as required  
7 by law.

8 SEC. 2. Section 7299.4 of the Government Code is amended  
9 to read:

10 7299.4. (a) Notwithstanding any other provision in this chapter,  
11 each state agency shall conduct a language survey and develop  
12 and update an implementation plan that complies with the  
13 requirements of this chapter.

14 (b) Each agency shall conduct a language survey of each of its  
15 local offices every two years to determine and provide all of the  
16 following:

17 (1) The name, position, and contact information of the employee  
18 designated by the agency responsible for complying with this  
19 chapter.

20 (2) The number of public contact positions in each local office.

21 (3) The number of qualified bilingual employees in public  
22 contact positions in each local office, and the languages they speak,  
23 other than English.

24 (4) The number and percentage of non-English-speaking people  
25 served by each local office, broken down by native language.

26 (5) The number of anticipated vacancies in public contact  
27 positions.

28 (6) Whether the use of other available options, including  
29 contracted telephone-based interpretation services, in addition to  
30 qualified bilingual persons in public contact positions, is serving  
31 the language needs of the people served by the agency.

32 (7) A list of all written materials that are required to be translated  
33 or otherwise made accessible to non- or limited-English-speaking  
34 individuals by Sections 7295.2 and 7295.4.

35 (8) A list of materials identified in paragraph (7) that have been  
36 translated and languages into which they have been translated.

37 (9) The number of additional qualified bilingual public contact  
38 staff, if any, needed at each local office to comply with this chapter.

39 (10) A detailed description of the agency's procedures for  
40 identifying written materials that are required to be translated.



1 (11) Each agency shall calculate the percentage of  
2 non-English-speaking people served by each local office by  
3 rounding the percentage arrived at to the nearest whole percentage  
4 point.

5 (12) A detailed description of the agency's procedures for  
6 identifying language needs at local offices and assigning qualified  
7 bilingual staff to those offices.

8 (13) A detailed description of how the agency recruits qualified  
9 bilingual staff in local offices.

10 (14) A detailed description of any training the agency provides  
11 to its staff on the provision of services to non- or  
12 limited-English-speaking individuals, frequency of training, and  
13 date of most recent training.

14 (15) A detailed description of the agency's procedures for  
15 accepting and resolving complaints of an alleged violation due to  
16 failure to make available translated documents or provide  
17 interpreter service through bilingual staff or contract services.

18 (16) A detailed description of how the agency complies with  
19 any federal or other state laws that require the provision of  
20 linguistically accessible services to the public.

21 (17) Any other relevant information requested by the Department  
22 of Human Resources.

23 (c) The language survey results and any additional information  
24 requested shall be reported in the form and at the time required by  
25 the Department of Human Resources, and delivered to the  
26 department not later than October 1 of every even-numbered year.

27 (d) Every odd-numbered year, each agency that served a  
28 substantial number of non-English-speaking people who comprise  
29 5 percent or more of the people served shall develop an  
30 implementation plan that provides a detailed description of how  
31 the agency plans to address any deficiencies in meeting the  
32 requirements of this chapter, including, but not limited to, the  
33 failure to translate written materials or employ sufficient numbers  
34 of qualified bilingual employees in public contact positions at local  
35 offices, the proposed actions to be taken to address the deficiencies,  
36 and the proposed dates by when the deficiencies will be remedied.

37 (e) In developing its implementation plan, each state agency  
38 may rely upon data gathered from its most recent language survey.

39 (f) Each state agency shall submit its implementation plan to  
40 the Department of Human Resources no later than October 1 of

1 each applicable year. The Department of Human Resources shall  
2 review each implementation plan, and, if it determines that the  
3 implementation plan fails to address the identified deficiencies,  
4 shall order the agency to supplement or make changes to its plan.  
5 A state agency that has been determined to be deficient shall report  
6 to the Department of Human Resources every six months on its  
7 progress in addressing the identified deficiencies.

8 (g) If the Department of Human Resources determines that a  
9 state agency has not made reasonable progress toward complying  
10 with this chapter, the department may issue orders that it deems  
11 appropriate to effectuate the purposes of this chapter.

12 SEC. 3. Section 7299.5 of the Government Code is amended  
13 to read:

14 7299.5. The Department of Human Resources may exempt  
15 state agencies from the requirements of Section 7299.4, where it  
16 determines that any of the following conditions apply:

17 (a) The agency's primary mission does not include responsibility  
18 for furnishing information or rendering services to the public.

19 (b) The agency has consistently received such limited public  
20 contact with the non-English-speaking public that it has not been  
21 required to employ bilingual staff under Section 7292 and the  
22 agency employs fewer than the equivalent of 25 full-time  
23 employees in public contact positions.

24 In order to receive an exemption, each state agency shall petition  
25 the Department of Human Resources for the exemption and receive  
26 approval in writing by the date established by the department. An  
27 agency may receive an exemption for up to five survey cycles, if  
28 it demonstrates that it meets the requirements of subdivision (a)  
29 or (b), and provides all required documentation to the Department  
30 of Human Resources.

31 SEC. 4. Section 18502 of the Government Code is amended  
32 to read:

33 18502. (a) There is hereby created in state government the  
34 Department of Human Resources. The department succeeds to and  
35 is vested with the following:

36 (1) All of the powers and duties exercised and performed by  
37 the Department of Personnel Administration.

38 (2) Those powers, duties, and authorities necessary to operate  
39 the state civil service system pursuant to Article VII of the

1 California Constitution, this code, the merit principle, and  
2 applicable rules duly adopted by the State Personnel Board.

3 (b) The State Personnel Board shall prescribe rules consistent  
4 with a merit based civil service system to govern classification,  
5 examinations, probationary periods, disciplinary actions, and other  
6 matters related to the board's authority under Article VII of the  
7 California Constitution. The State Personnel Board may conduct  
8 audits and investigations of personnel practices of the department  
9 and appointing authorities to ensure compliance with civil service  
10 policies, procedures, and statutes.

11 (c) This section shall not limit the authority of the Department  
12 of Human Resources and the State Personnel Board to delegate,  
13 share, or transfer between them responsibilities for programs within  
14 their respective jurisdictions pursuant to an agreement.

15 (d) The rules and regulations of the State Personnel Board and  
16 of the Department of Personnel Administration shall remain in  
17 effect unless and until contradicted by the terms of this chapter or  
18 amended or repealed by the board or the Department of Human  
19 Resources.

20 SEC. 5. Section 18525.3 of the Government Code is amended  
21 to read:

22 18525.3. "Transfer" means both of the following:

23 (a) The appointment of an employee to another position in the  
24 same class but under another appointing power.

25 (b) The appointment of an employee to a different class that has  
26 substantially the same level of duties, responsibility, and salary as  
27 the employee's current class under the same or another appointing  
28 authority.

29 SEC. 6. Section 18527 of the Government Code is amended  
30 to read:

31 18527. "Probationer" means an employee who has probationary  
32 status. "Probationary status" means the status of an employee who  
33 has been certified and appointed from an employment list, or has  
34 been reinstated after resignation, or has been transferred or demoted  
35 but who has not completed the probationary period.

36 SEC. 7. Section 18528 of the Government Code is amended  
37 to read:

38 18528. "Permanent employee" means an employee who has  
39 permanent status. "Permanent status" means the status of an

1 employee who is lawfully retained in his position after the  
2 completion of the probationary period.

3 SEC. 8. Section 18532.1 of the Government Code is amended  
4 to read:

5 18532.1. "Preferred limited term list" means a list of persons  
6 who have served under limited-term appointment and who, in  
7 accordance with rule, are granted eligibility for additional  
8 limited-term appointments.

9 SEC. 9. Section 18533 of the Government Code is amended  
10 to read:

11 18533. (a) "Subdivisional promotional list" means a list of  
12 persons eligible for certification for a specific class resulting from  
13 a promotional examination for a particular subdivision of a state  
14 agency.

15 (b) "Departmental promotional list" means a list of persons  
16 eligible for certification for a specific class resulting from a  
17 promotional examination for a particular state agency.

18 (c) "Multidepartmental promotional list" means a list of persons  
19 eligible for certification for a specific class resulting from a  
20 promotional examination for a group of state departments.

21 (d) "Servicewide promotional list" means a list of persons  
22 eligible for certification for a specific class resulting from a  
23 promotional examination for the entire state service.

24 SEC. 10. Section 18538.1 of the Government Code is repealed.

25 SEC. 11. Section 18540 of the Government Code is amended  
26 to read:

27 18540. "Armed forces" means the United States Air Force,  
28 Army, Navy, Marine Corps, and Coast Guard.

29 SEC. 12. Section 18544 of the Government Code is amended  
30 to read:

31 18544. "Duration employment" means an employment during  
32 time of war or during an emergency in connection with the national  
33 defense, which employment is subject to termination and other  
34 conditions as prescribed by Section 19200 and by rules.

35 SEC. 13. Section 18575 of the Government Code is amended  
36 to read:

37 18575. (a) (1) The appointing power shall provide service of  
38 the following actions by personal service or by certified mail with  
39 return receipt requested or express service carrier as provided in  
40 this subdivision:

- 1 (A) Notice of disciplinary action.  
2 (B) Notice of rejection during probationary period.  
3 (C) Notice of medical action.  
4 (D) Notice of nonpunitive action.  
5 (E) Notice of career executive assignment termination.  
6 (F) Notice of termination with fault of a limited term, seasonal,  
7 or temporary authorization appointment.  
8 (G) Notice of termination of an appointment under the Limited  
9 Examination and Appointment Program.  
10 (H) Notice of termination or automatic resignation of a  
11 permanent intermittent employee.  
12 (I) Notice of absence without leave resignation or separation  
13 pursuant to Section 89541 of the Education Code.  
14 (2) (A) Personal service shall be made in the manner, and is  
15 deemed complete, as provided for in Section 415.10 of the Code  
16 of Civil Procedure.  
17 (B) Service by certified mail with return receipt requested shall  
18 be made in the manner provided for in Section 1020 of the Code  
19 of Civil Procedure and is deemed complete as provided for in  
20 subdivision (a) of Section 1013 of the Code of Civil Procedure.  
21 (C) Service by express service carrier shall be in the manner,  
22 and is deemed complete, as provided for in subdivision (c) of  
23 Section 1013 of the Code of Civil Procedure.  
24 (D) The period to respond to any notice of action provided in  
25 paragraph (1) shall be extended as provided in Section 1013 of the  
26 Code of Civil Procedure.  
27 (b) Service of subpoenas and subpoenas duces tecum shall be  
28 made by personal service or by registered mail with return receipt  
29 requested as provided in subdivision (a).  
30 (c) Service of all other documents shall be made as prescribed  
31 by rule.  
32 (d) Proof of service shall be by affidavit as provided for in  
33 Sections 417.10 and 417.40 of, and subdivision (a) of Section 1013  
34 of, the Code of Civil Procedure.  
35 SEC. 14. Section 18654 of the Government Code is amended  
36 to read:  
37 18654. The intention of the Legislature is hereby declared to  
38 be that the executive officer shall perform and discharge under the  
39 direction and control of the board the powers, duties, purposes,

1 functions, and jurisdiction vested in the board and delegated to  
2 him or her by it.

3 Any power, duty, purpose, function, or jurisdiction that the board  
4 may lawfully delegate shall be conclusively presumed to have  
5 been delegated to the executive officer unless it is shown that the  
6 board by affirmative vote recorded in its minutes specifically has  
7 reserved the same for its own action. The executive officer may  
8 redelegate to his or her subordinates or to an appointing power he  
9 or she designates, unless by board rule or express provision of law  
10 he or she is specifically required to act personally.

11 SEC. 15. Section 18654.5 of the Government Code is amended  
12 to read:

13 18654.5. The executive officer shall administer the civil service  
14 statutes and rules, subject to the right of appeal to the board.

15 SEC. 16. Section 18655 of the Government Code is amended  
16 to read:

17 18655. When any person selected to assist in examinations or  
18 to serve as an authorized representative or referee of the board or  
19 the department is employed by the State in some other capacity,  
20 it is a part of his or her official duties to serve without additional  
21 compensation other than his or her actual and necessary traveling  
22 expenses.

23 SEC. 17. Section 18661 of the Government Code is amended  
24 to read:

25 18661. (a) The board may conduct an audit of any appointing  
26 authority's personnel practices to ensure compliance with the civil  
27 service laws and board regulations. The board may audit selection  
28 and examination procedures, appointments, promotions, the  
29 management of probationary periods, personal services contracts,  
30 discipline and adverse actions, or any other area related to the  
31 operation of merit principle in state civil service.

32 (b) When conducting an audit, the board may inspect documents,  
33 policies, practices, and procedures of the appointing authority  
34 relating to its personnel practices and interview appointing  
35 authority staff and witnesses regarding the subject of the audit.  
36 Failure by an appointing authority to cooperate with an audit may  
37 result in corrective action.

38 (c) Upon completion of the audit, the board may provide a report  
39 to the appointing authority and the department, identifying any

1 deficiencies in the appointing authority's personnel practices,  
2 policies, and procedures.

3 (d) If the board finds an appointing authority deficient in  
4 personnel practices, policies, and procedures, the appointing  
5 authority shall be subject to corrective action. The board may order  
6 remedies including, but not limited to, any or all of the following:

7 (1) Revocation or modification of the terms of the delegation  
8 agreement between the appointing authority and the department.

9 (2) That the appointing authority compensate the department  
10 for the actual and necessary cost of any and all of the personnel  
11 functions the department performs and training and supervision  
12 the department provides on behalf of the appointing authority,  
13 either permanently or for a specified term.

14 (3) Void examinations administered by the appointing authority,  
15 abolish eligibility lists, and void appointments made therefrom.

16 (4) Seek approval from the Department of Finance for  
17 redirection to the department of a sufficient number of the  
18 appointing authority's positions to perform all personnel related  
19 functions formerly performed by the appointing authority.

20 SEC. 18. Section 18670 of the Government Code is amended  
21 to read:

22 18670. The board may hold hearings and make investigations  
23 concerning all matters relating to the enforcement and effect of  
24 this part and rules prescribed under this part. It may inspect any  
25 state institution, office, or other place of employment affected by  
26 this part to ascertain whether this part and the board rules are  
27 obeyed.

28 The board shall make investigations and hold hearings at the  
29 direction of the Governor or the Legislature or upon the petition  
30 of an employee or a citizen concerning the enforcement and effect  
31 of this part and to enforce the observance of Article VII of the  
32 Constitution and of this part and the rules made under this part.

33 SEC. 19. Section 18671.1 of the Government Code is amended  
34 to read:

35 18671.1. (a) If a hearing or investigation is conducted by the  
36 board or its authorized representative in regard to an appeal by an  
37 employee, the hearing or investigation shall be commenced within  
38 a reasonable time after the filing of the appeal. For appeals from  
39 actions resulting in the termination of an employee, if an  
40 evidentiary hearing has not commenced within six months of the

1 filing of the appeal, the employee may make a written request for  
2 a priority hearing by the board. Upon receipt of the written request,  
3 the board shall schedule an evidentiary hearing within 60 days of  
4 the request at a hearing location designated by the board.

5 (b) The board shall render its decision within a reasonable time  
6 after the conclusion of the hearing or investigation, except that the  
7 period from the filing of the appeal to the decision of the board  
8 shall not exceed six months.

9 (c) The provisions described in subdivision (b) relating to the  
10 six-month period for a decision may be waived by the employee  
11 but if not so waived, a failure to render a timely decision is an  
12 exhaustion of all available administrative remedies.

13 (d) The board may order all of, or a portion of, any hearing to  
14 be conducted using electronic media pursuant to board rules.

15 SEC. 20. Section 18672 of the Government Code is amended  
16 to read:

17 18672. (a) Subpoenas and subpoenas duces tecum may be  
18 issued for attendance at a hearing and for production of documents  
19 at any reasonable time and place. However, a subpoena shall not  
20 be issued to compel attendance of any witness who does not reside  
21 within 100 miles of the place where the hearing or investigation  
22 is held unless it is shown to the satisfaction of a member of the  
23 board, the executive officer, or the person authorized to conduct  
24 the investigation or hearing, by affidavit stating the facts, that the  
25 witness is a material witness. That statewide subpoena shall be  
26 served at least five days prior to the date of hearing.

27 (b) Subpoenas and subpoenas duces tecum shall be issued by  
28 the board or its authorized representative at the request of a party.

29 (c) The process extends to all parts of the state and shall be  
30 served in accordance with Sections 1987 and 1988 of the Code of  
31 Civil Procedure and the service provisions of subdivisions (a) and  
32 (b) of Section 68097.1 of the Government Code. A subpoena or  
33 subpoena duces tecum may also be delivered by certified mail  
34 return receipt requested or by messenger. Service by messenger  
35 shall be effected when the witness acknowledges receipt of the  
36 subpoena to the sender, by telephone, by mail, or in person, and  
37 identifies himself or herself either by reference to date of birth and  
38 driver's license number or Department of Motor Vehicles  
39 identification number, or the sender may verify receipt of the  
40 subpoena by obtaining other identifying information from the



1 recipient. The sender shall make a written notation of the  
2 acknowledgment. A subpoena issued and acknowledged pursuant  
3 to this section has the same force and effect as a subpoena  
4 personally served. Failure to comply with a subpoena issued and  
5 acknowledged pursuant to this section may be punished as a  
6 contempt and the subpoena may so state.

7 (d) No witness is obliged to attend unless the witness is a  
8 resident of the state at the time of service.

9 (e) The custodian of documents that are the subject of a  
10 subpoena duces tecum may satisfy the subpoena by delivery of  
11 the documents or a copy of the documents, or by making the  
12 documents available for inspection or copying, together with an  
13 affidavit in compliance with Section 1561 of the Evidence Code.

14 SEC. 21. Section 18674 of the Government Code is amended  
15 to read:

16 18674. Witnesses at a hearing or investigation are entitled to  
17 the same fees as are allowed witnesses in civil cases in courts of  
18 record.

19 An officer serving a subpoena to secure the attendance of those  
20 witnesses shall receive the same mileage as for the service by him  
21 or her of a writ or paper for the state. The fees and mileage, except  
22 in dismissal or other punitive proceedings where the service is  
23 requested by the accused, need not be prepaid.

24 If a witness is subpoenaed by a state agency or its representative,  
25 the Controller shall draw his or her warrant for payment of fees  
26 and mileage when the amount is duly proved by affidavit or  
27 otherwise to the satisfaction of the Controller. The Controller may  
28 charge such warrant against any proper fund of that state agency.  
29 If a witness is subpoenaed by the accused or any person other than  
30 a state agency, his or her fees and mileage shall be paid by that  
31 person and are not proper charges against any state fund.

32 SEC. 22. Section 18676 of the Government Code is amended  
33 to read:

34 18676. When ordered to do so, a witness shall not be excused  
35 from testifying or from producing any documentary evidence in  
36 that investigation or hearing upon the ground that the testimony  
37 or documentary evidence required of the witness may tend to  
38 incriminate or subject the witness to penalty or forfeiture, provided  
39 the witness has been granted use and derivative use, or transactional  
40 immunity by the appropriate law enforcement authority.

1 SEC. 23. Section 18681 of the Government Code is amended  
2 to read:

3 18681. Whenever any matter is pending before the board  
4 involving a dispute between one or more employees and an  
5 appointing power and the parties to such dispute agree upon a  
6 settlement or adjustment thereof, the terms of such settlement or  
7 adjustment may be submitted to the board, and if approved by the  
8 board, the disposition of the matter in accordance with the terms  
9 of such adjustment or settlement shall become final and binding  
10 upon the parties.

11 SEC. 24. Section 18682 of the Government Code is amended  
12 to read:

13 18682. Whenever any employee, department, or other person,  
14 actively interested in a matter before the board and in connection  
15 with which it is holding a hearing, requests that the board make  
16 findings, then the board shall make findings if the request is made  
17 at any time prior to the time the board takes the matter under  
18 submission.

19 SEC. 25. Section 18804 of the Government Code is amended  
20 to read:

21 18804. Upon the reallocation of a position, other than by action  
22 of the board under Section 18802, the incumbent of the position  
23 shall not thereby gain status in the new class. Change in status of  
24 the incumbent may be accomplished only in accordance with the  
25 appropriate sections of this part and rules relating to transfer,  
26 demotion, or promotion.

27 SEC. 26. Section 18807 of the Government Code is repealed.

28 SEC. 27. Section 18900 of the Government Code is amended  
29 to read:

30 18900. (a) Eligible lists shall be established as a result of free  
31 competitive examinations open to persons who lawfully may be  
32 appointed to any position within the class for which these  
33 examinations are held and who meet the minimum qualifications  
34 requisite to the performance of the duties of that position as  
35 prescribed by the specifications for the class or by rule.

36 (b) The department may limit the size of candidate groups in  
37 entry-level and nonpromotional examinations when doing so would  
38 be in the best interest of the state and effective competition can  
39 occur among a smaller number of applicants.

1 SEC. 28. Section 18900.5 of the Government Code is amended  
2 to read:

3 18900.5. For purposes of this part, “designated appointing  
4 power” means an appointing power designated by the department  
5 under Section 18930.5.

6 SEC. 29. Section 18900.6 of the Government Code is amended  
7 to read:

8 18900.6. (a) The department may authorize the use of  
9 skills-based certification for information technology classifications  
10 if all of the following conditions are satisfied:

11 (1) There is a job analysis that meets legal standards.

12 (2) The class is used on a servicewide basis.

13 (3) The class is broad and includes a number of distinct  
14 assignments.

15 (4) It is in the best interest of the state to use skills-based  
16 certification.

17 (b) For purposes of this section, “skills-based certification”  
18 means the creation of a unique certification list for each vacancy  
19 within a class. Skills-based certification is created by weighting  
20 the scores attained by competitors of all measured knowledge,  
21 skills, and abilities to reflect their relative importance to the job,  
22 as identified by a job analysis for each vacancy. Skills-based  
23 certification shall replace the single eligible list for a classification  
24 with a unique list of eligible individuals for each vacancy.  
25 Skills-based certification shall determine the order of individuals  
26 on a certification list; it shall not affect the rules for using  
27 certification lists.

28 (c) The department shall also promulgate regulations specifying  
29 how skills-based certification shall be implemented. Among other  
30 things, these regulations shall include provisions to ensure fairness  
31 to all candidates and prevent improper manipulation.

32 SEC. 30. Section 18903 of the Government Code is amended  
33 to read:

34 18903. (a) For each class there shall be maintained a general  
35 reemployment list consisting of the names of all persons who have  
36 occupied positions with probationary or permanent status in the  
37 class and who have been legally laid off or demoted in lieu of  
38 layoff.

39 (b) Within one year from the date of his or her resignation in  
40 good standing, or his or her voluntary demotion, the name of an

1 employee who had probationary or permanent status may be placed  
2 on the general reemployment list with the consent of the appointing  
3 power and the department. The general reemployment list may  
4 also contain the names of persons placed thereon by the department  
5 in accordance with other provisions of this part.

6 SEC. 31. Section 18931 of the Government Code is amended  
7 to read:

8 18931. (a) The board shall establish minimum qualifications  
9 for determining the fitness and qualifications of employees for  
10 each class of position. The department may require applicants for  
11 examination or appointment to provide documentation as it deems  
12 necessary to establish the applicants' qualifications.

13 (b) Whenever the law requires that an applicant for a position  
14 as a peace officer be screened to ensure that the applicant is free  
15 from emotional and mental impairment, the department or the  
16 designated appointing authority shall undertake such screening  
17 subject to the applicant's right to appeal to the board.

18 SEC. 32. Section 18933 of the Government Code is amended  
19 to read:

20 18933. (a) Within a reasonable time before the scheduled date,  
21 the department or a designated appointing power shall announce  
22 or advertise examinations for the establishment of eligible lists.  
23 The announcement shall include the following:

- 24 (1) The date and place of the examination.  
25 (2) The nature of the minimum qualifications.  
26 (3) The general scope of the examination.  
27 (4) The relative weight of its several parts if more than one type  
28 of test is to be utilized.

29 (5) Any other information the department deems proper.

30 (b) The department shall notify the Department of Veterans  
31 Affairs when any promotional examination for the establishment  
32 of an eligible list is announced or advertised to eligible candidates.  
33 The notification shall state the job position and include all of the  
34 information listed in paragraphs (1) to (5), inclusive, of subdivision  
35 (a).

36 SEC. 33. Section 18934 of the Government Code is amended  
37 to read:

38 18934. Every applicant for examination shall file an application  
39 with the department or a designated appointing power as directed  
40 in the examination announcement. Applications shall be accepted

1 free of any charge to the applicant. Such applications when filed  
2 and all other examination materials, including examination  
3 questions and any written material, are the property of the  
4 department and are confidential records not open to inspection  
5 except as provided by law.

6 The application shall include a place for listing volunteer  
7 experience and such experience shall be considered if it is relevant  
8 to the position being applied for and shall state that relevant  
9 volunteer experience will be given consideration as qualifying  
10 experience for state employment.

11 SEC. 34. Section 18935 of the Government Code is repealed.

12 SEC. 35. Section 18935 is added to the Government Code, to  
13 read:

14 18935. (a) The department or a designated appointing power  
15 may refuse to examine, or after examination may refuse to declare  
16 as eligible, or may withhold or withdraw from an eligible list,  
17 before the appointment, anyone who meets any of the following  
18 criteria:

19 (1) Lacks any of the requirements for the examination or position  
20 for which he or she applied.

21 (2) Has been dismissed from any position for any cause that  
22 would be a cause for dismissal from state service.

23 (3) Has resigned from any position not in good standing in order  
24 to avoid dismissal.

25 (4) Has misrepresented himself or herself in the application or  
26 examination process, including permitting another person to  
27 complete or attempt to complete a portion of the examination on  
28 his or her behalf.

29 (5) Has been found to be unsuited or not qualified for  
30 employment pursuant to rule.

31 (b) The remedies provided in this section are not exclusive and  
32 shall not prevent the board, department, or appointing power from  
33 taking additional actions pursuant to Chapter 10 (commencing  
34 with Section 19680).

35 SEC. 36. Section 18936 of the Government Code is amended  
36 to read:

37 18936. The final earned rating of each person competing in  
38 any examination shall be determined by the weighted average of  
39 the earned ratings on all phases of the examination, according to  
40 the weights for each phase established by the department or a

1 designated appointing power in advance of the giving of the  
2 examination and published as a part of the announcement of the  
3 examination.

4 The department or a designated appointing power may set  
5 minimum qualifying ratings for each phase of an examination and  
6 may provide that competitors failing to achieve such ratings in any  
7 phase shall be disqualified from any further participation in the  
8 examination.

9 SEC. 37. Section 18937 of the Government Code is amended  
10 to read:

11 18937. The passing mark for an examination may be other than  
12 the true percentage or average published as a part of the  
13 announcement of the examination, if deemed by the department  
14 or a designated appointing power to be justified in order to provide  
15 an adequate eligible list or to adjust for the apparent difficulty of  
16 an examination. In establishing any eligible list or promotional list  
17 following an examination, the names of the persons who have  
18 attained the passing mark in such examination shall be placed on  
19 the list in the order of final earned ratings, except as such order  
20 may be modified by the application of veterans' preferences. When  
21 the order of names has been determined after applying the  
22 appropriate veterans' preference credits, the department may  
23 thereafter limit to suit the needs of the service the number of names  
24 to be placed on the employment list.

25 SEC. 38. Section 18938.6 of the Government Code is amended  
26 to read:

27 18938.6. The department or designated appointing power shall  
28 provide for the inspection of examination papers for all written  
29 test competitors.

30 SEC. 39. Section 18940 of the Government Code is repealed.

31 SEC. 40. Section 18940 is added to the Government Code, to  
32 read:

33 18940. Any applicant for examination may request reasonable  
34 accommodation for a disability or sincerely held religious belief  
35 pursuant to the Fair Employment and Housing Act or any other  
36 applicable law. The department may prescribe rules governing  
37 those requests.

38 SEC. 41. Section 18941 of the Government Code is repealed.

39 SEC. 42. Section 18941 is added to the Government Code, to  
40 read:

18941. Any former state employee who was dismissed from state service pursuant to Chapter 7 (commencing with Section 19500) of Division 5 of this part may petition the department to be permitted to take a civil service examination in order to establish eligibility for appointment to state service. The department may grant such a petition for a particular examination or may grant the petition for any or all future examinations. If the department denies the petition, the former state employee may appeal that decision to the board.

SEC. 43. Section 18950 of the Government Code is amended to read:

18950. Vacancies in positions shall be filled insofar as consistent with the best interests of the state from among employees holding positions in appropriate classes, and appropriate promotional lists shall be established to facilitate this purpose, except as provided in Section 18930. Examinations shall be held on an open, nonpromotional basis when, in the judgment of the department or designated appointing power, open competition will produce eligible lists with more highly skilled qualified candidates and is consistent with the best interests of the state.

The department may prescribe conditions under which state employees, persons on leave of absence, and persons whose names are on appropriate reemployment lists, may be permitted to compete in promotional examination and to attain eligibility for appointment.

The department may further prescribe conditions under which eligibility may be transferred from one promotional list to another promotional list when such lists are for the same class and have been established as a result of the same or a similar examination.

SEC. 44. Section 18950.1 of the Government Code is amended to read:

18950.1. Notwithstanding any other law, full-time employees of the state who are exempt from state civil service pursuant to the provisions of Section 4 of Article VII of the California Constitution, shall be eligible to receive three career credits, except when competing for managerial positions, as defined in Section 3513, under conditions prescribed by the department.

Such credits shall be granted only for open nonpromotional examinations. In order to be eligible to receive credits, such

1 employees must meet all qualification requirements specified and  
2 must have 12 consecutive months of service in an exempt position.

3 SEC. 45. Section 18951 of the Government Code is amended  
4 to read:

5 18951. The board, department, and each state agency and  
6 employee shall encourage economy and efficiency in and devotion  
7 to state service by encouraging promotional advancement of  
8 employees showing willingness and ability to perform efficiently  
9 services assigned them, and every person in state service shall be  
10 permitted to advance according to merit and ability.

11 In an examination held on an open, nonpromotional basis under  
12 the provisions of Section 18950, a competitor, who has permanent  
13 civil service status, or who has a mandatory right of reinstatement  
14 to a position with permanent civil service status, and who attains  
15 the passing mark established for an examination which is not for  
16 a managerial position as defined in Section 3513, shall have three  
17 credits added to his or her earned score. Such credits shall be  
18 known as career credits.

19 SEC. 46. Section 18972 of the Government Code is repealed.

20 SEC. 47. Section 18975 of the Government Code is amended  
21 to read:

22 18975. Periods of service in the recognized military service  
23 shall be counted by the department and designated appointing  
24 authority as qualifying experience upon a showing by the veteran  
25 that the veteran's service involved duties and responsibilities of  
26 the kind for which credit for experience is being allowed.

27 SEC. 48. Section 18976 of the Government Code is amended  
28 to read:

29 18976. Request for and proof of eligibility for veterans'  
30 preference shall be submitted by the veteran to the department or  
31 designated appointing authority conducting the employment  
32 examination. The procedures and time of filing the request shall  
33 be subject to rules promulgated by the department, in consultation  
34 with the Department of Veterans Affairs.

35 SEC. 49. Section 19050.4 of the Government Code is amended  
36 to read:

37 19050.4. A transfer may be accomplished without examination  
38 pursuant to rule. The department or appointing authority may  
39 require an employee to demonstrate in an examination that he or  
40 she possesses any additional or different requirements that are



1 included in the minimum qualifications of the class to which the  
2 employee is transferring.

3 SEC. 50. Section 19052 of the Government Code is repealed.

4 SEC. 51. Section 19052 is added to the Government Code, to  
5 read:

6 19052. Whenever a vacancy in any position is to be filled and  
7 not by transfer, demotion, or reinstatement, the appointing power  
8 shall provide any information the department requests, including  
9 the classification of the position, the number of vacancies to be  
10 filled, the tenure and time base of the position, the location of the  
11 position, and any other information as the department may require.

12 SEC. 52. Section 19057.1 of the Government Code is amended  
13 to read:

14 19057.1. Notwithstanding Section 19057, for positions in  
15 classes designated as professional, scientific, or administrative, or  
16 for any open employment list, there shall be certified to the  
17 appointing power the names and addresses of all those eligibles  
18 whose scores, at time of certification, represent the three highest  
19 ranks on the employment list for the class, and who have indicated  
20 their willingness to accept appointment under the conditions of  
21 employment specified.

22 For purposes of ranking, scores of eligibles on employment lists  
23 for these classes shall be rounded to the nearest whole percent. A  
24 rank shall consist of one or more eligibles with the same whole  
25 percentage score.

26 If the names on the list from which certification is being made  
27 represent fewer than three ranks, then additional eligibles shall be  
28 certified from the various lists next lower in order of preference  
29 until names from three ranks appear. If there are fewer than three  
30 names available for certification, and the appointing authority does  
31 not choose to appoint from among these, the appointing authority  
32 may demand certification of three names. In that case, examinations  
33 shall be conducted until at least three names may be certified by  
34 the procedure described in this section, and the appointing authority  
35 shall fill the position by appointment of one of the persons certified.

36 Fractional examination scores shall be provided to, and used by,  
37 the Department of the California Highway Patrol for its peace  
38 officer classes.

1 The department may provide for certifying less than three ranks  
2 where the size of the certified group is disproportionate to the  
3 number of vacancies.

4 SEC. 53. Section 19057.2 of the Government Code is amended  
5 to read:

6 19057.2. Notwithstanding the provisions of Section 19057, for  
7 positions in classes designated as management, there shall be  
8 certified to the appointing power the names and addresses of all  
9 those applicants whose scores, at the time of certification, represent  
10 the three highest ranks on the employment list for the class, and  
11 who have indicated their willingness to accept appointment under  
12 the conditions of employment specified.

13 For purposes of ranking, scores of eligibles on employment lists  
14 for such classes shall be divided into six ranks. The first rank shall  
15 consist of eligibles who receive a score of 95 percent or higher.  
16 The second rank shall consist of eligibles who receive a score of  
17 90 to 94 percent, inclusive. The third rank shall consist of eligibles  
18 who receive a score of 85 to 89 percent, inclusive. The fourth rank  
19 shall consist of eligibles who receive a score of 80 to 84 percent,  
20 inclusive. The fifth rank shall consist of eligibles who receive a  
21 score of 75 to 79 percent, inclusive. The sixth rank shall consist  
22 of eligibles who receive a score of 70 to 74 percent, inclusive. All  
23 examination scores for positions in these classes shall be rounded  
24 to the nearest whole percent.

25 If the names on the list from which certification is being made  
26 represent fewer than three ranks, then additional eligibles shall be  
27 certified from the various lists next lower in order of preference  
28 until names from three ranks appear. If there are fewer than three  
29 names available for certification, and the appointing authority does  
30 not choose to appoint from among these, the appointing authority  
31 may demand certification of three names. In such case,  
32 examinations shall be conducted until at least three names may be  
33 certified by the procedure described in this section, and the  
34 appointing authority shall fill the position by appointment of one  
35 of the persons certified.

36 The department may certify less than three ranks where the size  
37 of the certified group is disproportionate to the number of  
38 vacancies.

39 SEC. 54. Section 19058 of the Government Code is amended  
40 to read:

1 19058. When there is no employment list from which a position  
2 may be filled, the appointing power, with the consent of the  
3 department, may fill the position by temporary appointment. The  
4 temporary appointment to a permanent position shall continue only  
5 until eligibles are available from an appropriate employment list  
6 and shall not exceed the period prescribed by Section 5 of Article  
7 VII of the Constitution. Within the limits of the period prescribed  
8 therein, any temporary appointment to a limited-term position  
9 may, in the discretion of the appointing power and with the  
10 approval of the department, be continued for the life of such  
11 position. When temporary appointments are made to permanent  
12 positions, an appropriate employment list shall be established for  
13 each class to which a temporary appointment is made before the  
14 expiration of the appointment.

15 SEC. 55. Section 19059 of the Government Code is amended  
16 to read:

17 19059. A person who does not possess the minimum  
18 qualifications for the class to which the position belongs shall not  
19 be appointed under a temporary appointment. A temporary  
20 appointee shall not acquire any probationary or permanent status  
21 or rights, and time spent under temporary appointment shall not  
22 contribute to the probationary period if the appointee is  
23 subsequently successful in an examination and is certified and  
24 appointed to the position.

25 SEC. 56. Section 19062.5 of the Government Code is amended  
26 to read:

27 19062.5. The department may establish eligibility requirements  
28 governing movement of employees between full-time, part-time,  
29 and intermittent positions.

30 SEC. 57. Section 19082 of the Government Code is amended  
31 to read:

32 19082. The department may provide for the establishment,  
33 maintenance, and use of preferred limited-term lists.

34 SEC. 58. Section 19101 of the Government Code is amended  
35 to read:

36 19101. The department or a designated appointing authority  
37 may establish employment lists from which intermittent  
38 appointments may be made. Eligibles shall be certified in  
39 accordance with their position on the appropriate employment list

1 and their willingness to accept appointment to such position as  
2 “intermittent employees.”

3 SEC. 59. Section 19140 of the Government Code is amended  
4 to read:

5 19140. (a) In addition to reinstatement required under any  
6 other section, an appointing power may, in his or her discretion,  
7 reinstate any person having probationary or permanent status who  
8 was separated from his or her position (1) by resignation, (2) by  
9 service retirement, (3) by termination from limited-term, temporary,  
10 career executive assignment, or exempt appointment, (4) under  
11 Section 19996.2, or (5) without a break in continuity of state  
12 service to accept another civil service or exempt appointment. In  
13 addition, an employee who was separated from his or her position  
14 under Section 19585 shall have permissive reinstatement eligibility  
15 to that position when he or she again meets the requirements for  
16 continuing employment in that position, and shall have permissive  
17 reinstatement eligibility for any other position as provided by this  
18 section.

19 (b) Reinstatement shall be undertaken subject to rule.

20 (c) Reinstatement shall be undertaken within three years if the  
21 employee, at the time of separation, was a member of the California  
22 Highway Patrol.

23 (d) For reinstatement after separation, for members of the  
24 California Highway Patrol, the time spent in any of the following  
25 positions shall not be considered in computing the three-year  
26 period:

27 (1) In a position which is exempt from civil service.

28 (2) As a temporary employee in another governmental agency  
29 engaged in a technical cooperation program under an agreement  
30 approved by the state.

31 (3) In a recognized military service.

32 (e) A member of the California Highway Patrol separated from  
33 state service may be reinstated to an otherwise appropriate  
34 nonmember class even if the separation exceeds three years.

35 (f) Reinstatement shall be made to any of the following vacant  
36 positions:

37 (1) The class vacated or from which separated.

38 (2) A lower class in the same series.

39 (3) Another class to which the employee could transfer or  
40 demote pursuant to rule.

1 An employee, including a member of the California Highway  
2 Patrol, separated from his or her former position in state service  
3 by layoff, or by resignation or demotion in lieu of layoff, may be  
4 reinstated at the discretion of the appointing power. However, the  
5 reinstatement is subject to the requirements of this section and  
6 shall not be to a position that is specifically subject to the  
7 employee's reemployment list eligibility.

8 SEC. 60. Section 19140.5 of the Government Code is amended  
9 to read:

10 19140.5. This section applies only to a permanent employee,  
11 or an employee who previously had permanent status and who,  
12 since receiving permanent status, has had no break in the continuity  
13 of state service due to a permanent separation.

14 An employee who is (a) terminated from a temporary or  
15 limited-term appointment by either the employee or the appointing  
16 power; or (b) rejected during probation; or (c) demoted from a  
17 managerial position pursuant to Section 19590; shall be reinstated  
18 to his or her former position provided all of the following  
19 conditions occur:

20 (1) The employee accepted the appointment without a break in  
21 the continuity of state service.

22 (2) The reinstatement is requested in the manner provided by  
23 rule within 10 working days after the effective date of the  
24 termination.

25 SEC. 61. Section 19141.1 of the Government Code is amended  
26 to read:

27 19141.1. (a) This section applies only to a permanent  
28 employee, or an employee who previously had permanent status,  
29 and who has a reinstatement right pursuant to Section 19141.

30 (b) Within four years of the termination of an appointment in  
31 an exempt position, either by the employee or the appointing  
32 power, an employee who has completed a minimum of five years  
33 of state service experience and at least one year but less than three  
34 years of exempt service shall be given an opportunity upon request  
35 to obtain civil service appointment eligibility, through a deferred  
36 examination, for any position offered by any appointing power in  
37 any class for which a current eligible list exists and which has a  
38 salary range up to two steps higher than the employee's former  
39 position. If the employee has three or more years of exempt service,

1 the opportunity shall be provided for any class at least two salary  
2 steps below the employee's exempt salary level.

3 (c) At the termination of an exempt appointment, either by the  
4 employee or the appointing power, on or after January 1, 1987, an  
5 employee who has at least 10 years of state service including five  
6 years of civil service experience and at least three consecutive  
7 years of exempt service under a single appointing power and who  
8 requests reinstatement in writing within 10 days of the termination,  
9 shall be reinstated upon request to (1) his or her former position  
10 or (2) any vacant position for which the employee has civil service  
11 eligibility under the appointing power where the three years of  
12 service were completed and which is at least two salary steps below  
13 the employee's exempt salary level. In the absence of current list  
14 eligibility, an employee shall be entitled to a deferred examination  
15 for placement on a current eligible list for classes meeting the  
16 mandatory reinstatement criteria. If the employee obtains civil  
17 service appointment eligibility at any time within two years of the  
18 termination of the exempt appointment, and a vacant position in  
19 the appropriate class is not available, the employee's name shall  
20 be placed on the appointing power's departmental or subdivisional  
21 reemployment for any classes and locations which would satisfy  
22 the employee's reinstatement request. Departmental or  
23 subdivisional reemployment list eligibility granted under this  
24 section shall not result in placement on any general reemployment  
25 list.

26 If an employee cannot be placed in a vacant position pursuant  
27 to this section, the employee shall be reinstated to his or her former  
28 position.

29 SEC. 62. Section 19143 of the Government Code is amended  
30 to read:

31 19143. At the termination of any temporary separation, except  
32 termination of a permanent or probationary employee by layoff  
33 and termination by displacement, as defined in regulation, the  
34 employee shall be reinstated to his or her former position, as  
35 defined in Section 18522, unless some other reinstatement right  
36 is specified for the particular temporary separation in the Civil  
37 Service Act or regulation.

38 SEC. 63. Section 19170 of the Government Code is amended  
39 to read:

1 19170. (a) The board shall establish for each class the length  
2 of the probationary period. The probationary period that shall be  
3 served upon appointment shall be six months unless the board  
4 establishes a longer period of not more than one year.

5 (b) By rule, the board may:

6 (1) Increase the length of individual probationary periods by  
7 adding periods of time to any periods of time an employee, while  
8 serving as a probationer, is absent from his or her position.

9 (2) Require an additional probationary period not to exceed the  
10 length of the probationary period of the class in which the  
11 probationer was appointed when the probationary employee returns  
12 after an extended period of absence and the remainder of the  
13 probationary period is insufficient to evaluate his or her current  
14 performance.

15 (c) Upon written agreement between an appointing power and  
16 an employee who alleges that he or she has a disability, as defined  
17 in Section 12926, subject to approval of the agreement by the  
18 board, the employee's probationary period may be extended for a  
19 period, not to exceed six months, to allow the appointing power  
20 to provide a reasonable accommodation to the employee and the  
21 employee to demonstrate, before the probationary period ends, the  
22 ability to perform satisfactorily the essential functions of the  
23 position with reasonable accommodation. Nothing in this  
24 subdivision may relieve an appointing power from complying with  
25 applicable law requiring reasonable accommodation or prohibiting  
26 discrimination based on disability, and no employee, as a condition  
27 of an agreement to extend the probationary period, may be required  
28 to waive or release any rights he or she may have under applicable  
29 law requiring reasonable accommodation or prohibiting  
30 discrimination based on disability.

31 SEC. 64. Section 19200 of the Government Code is amended  
32 to read:

33 19200. Whenever the United States is engaged in war or  
34 whenever the department finds that an emergency exists in  
35 connection with the national defense, the department may authorize  
36 duration examinations and employments in those classes in which  
37 the best interests of the state would be served during such war or  
38 emergency. Within not less than three months, or more than one  
39 year, after the department finds that there is no longer an

1 emergency, all duration employments shall be terminated in such  
2 order as the department deems appropriate.

3 SEC. 65. Section 19253 of the Government Code is amended  
4 to read:

5 19253. Subject to approval by the department, an appointing  
6 power with the concurrence or at the request of an employee may  
7 request the voluntary demotion of such employee to a vacant  
8 position.

9 If the class to which the demotion is proposed requires  
10 qualifications, knowledges, or abilities not measured by the  
11 examination for the class from which demotion is proposed, the  
12 department may examine the employee for the possession of those  
13 additional qualifications, knowledges, and abilities.

14 SEC. 66. Section 19253.5 of the Government Code is amended  
15 to read:

16 19253.5. (a) An appointing power may require an employee  
17 to submit to a medical examination by a physician or physicians  
18 designated by the appointing power to evaluate the capacity of the  
19 employee to perform the work of his or her position.

20 (b) Fees for the examination and for the services of medical  
21 specialists or technicians, if necessary, shall be paid by the state  
22 agency. The employee may submit medical or other evidence to  
23 the examining physician or to the appointing power. The examining  
24 physician shall make a written report of the examination to the  
25 appointing power. The appointing power shall provide a copy to  
26 the physician designated by the employee.

27 (c) When the appointing power, after considering the  
28 conclusions of the medical examination and other pertinent  
29 information, concludes that the employee is unable to perform the  
30 work of his or her present position, but is able to perform the work  
31 of another position including one of less than full time, the  
32 appointing power may demote or transfer the employee to such a  
33 position.

34 Except as authorized by the Department of Human Resources  
35 under Section 19837, the employee demoted or transferred pursuant  
36 to this section shall receive the maximum of the salary range of  
37 the class to which he or she is demoted or transferred, provided  
38 that the salary is not greater than the salary he or she received at  
39 the time of his or her demotion or transfer.



1 (d) When the appointing power after considering the conclusions  
2 of the medical examination provided for by this section or medical  
3 reports from the employee's physician, and other pertinent  
4 information, concludes that the employee is unable to perform the  
5 work of his or her present position, or any other position in the  
6 agency, and the employee is not eligible or waives the right to  
7 retire for disability and elects to withdraw his or her retirement  
8 contributions or to permit his or her contributions to remain in the  
9 retirement fund with rights to service retirement, the appointing  
10 power may terminate the appointment of the employee.

11 (e) The appointing power may demote, transfer, or terminate  
12 an employee under this section without requiring the employee to  
13 submit to a medical examination when the appointing power relies  
14 upon a written statement submitted to the appointing power by the  
15 employee as to the employee's condition or upon medical reports  
16 submitted to the appointing power by the employee.

17 (f) The employee shall be given written notice of any demotion,  
18 transfer, or termination under this section at least 15 days prior to  
19 the effective date thereof. No later than 15 days after service of  
20 the notice, the employee may appeal the action of the appointing  
21 power to the board. The board, in accordance with its rules, shall  
22 hold a hearing. The board may sustain, disapprove, or modify the  
23 demotion, transfer, or termination.

24 (g) Whenever the board revokes or modifies a demotion,  
25 transfer, or termination, the board shall direct the payment of salary  
26 to the employee calculated on the same basis and using the same  
27 standards as provided in Section 19584.

28 (h) Upon the request of an appointing authority or the petition  
29 of the employee who was terminated, demoted, or transferred in  
30 accordance with this section, the employee shall be reinstated to  
31 an appropriate vacant position in the same class, in a comparable  
32 class or in a lower related class if it is determined by the board  
33 that the employee is no longer incapacitated for duty. Such a  
34 reinstatement to a position in a different agency may be made only  
35 with the concurrence of that agency. In approving or ordering the  
36 reinstatements, the board may require the satisfactory completion  
37 of a new probationary period. When the board finds the employee  
38 who was terminated, demoted, or transferred is no longer  
39 incapacitated for duty but there is no vacant position to which the  
40 employee appropriately can be appointed, the name of the

1 employee shall be placed upon those reemployment lists that are  
2 determined to be appropriate by the board.

3 (i) (1) If the appointing power, after considering the conclusions  
4 of the medical examination provided for by this section or medical  
5 reports from the employee's physician and other pertinent  
6 information, concludes that the employee is unable to perform the  
7 work of his or her present position or any other position in the  
8 agency and the employee is eligible and does not waive the right  
9 to retire for disability, the appointing power shall file an application  
10 for disability retirement on the employee's behalf. The appointing  
11 power shall give the employee 15 days written notice of its  
12 intention to file such an application and a reasonable opportunity  
13 to respond to the appointing power prior to the appointing power's  
14 filing of the application. However, the appointing power's decision  
15 to file the application is final and is not appealable to the State  
16 Personnel Board.

17 (2) Notwithstanding Section 21153, upon filing the application  
18 for disability retirement, the appointing power may remove the  
19 employee from the job and place the employee on involuntary  
20 leave status. The employee may use any accrued leave eligible  
21 during the period of the involuntary leave. If the employee's leave  
22 credits and programs are exhausted or if they do not provide  
23 benefits at least equal to the estimated retirement allowance, the  
24 appointing power shall pay the employee an additional temporary  
25 disability allowance so that the employee receives payment equal  
26 to the retirement allowance. The appointing power shall continue  
27 to make all employer contributions to the employee's health plans  
28 during the period of the involuntary leave.

29 (3) If the application for disability retirement is subsequently  
30 granted, the retirement system shall reimburse the appointing power  
31 for the temporary disability allowance which shall be deducted  
32 from any back disability retirement benefits otherwise payable to  
33 the employee. If the application is denied, the appointing power  
34 shall reinstate the employee to his or her position with back salary  
35 and benefits pursuant to subdivision (g), less any temporary  
36 disability allowance paid by the appointing power. The appointing  
37 power shall also restore any leave credits the employee used during  
38 the period of the involuntary leave.

39 SEC. 67. Section 19257.5 of the Government Code is amended  
40 to read:

1 19257.5. Where the appointment of an employee has been  
2 made and accepted in good faith, but where the appointment would  
3 not have been made but for some mistake of law or fact that if  
4 known to the parties would have rendered the appointment  
5 unlawful when made, the department may declare the appointment  
6 void from the beginning if the action is taken within one year after  
7 the appointment.

8 SEC. 68. Section 19400 of the Government Code is amended  
9 to read:

10 19400. It is the intent of this article to establish and maintain  
11 an effective upward mobility program for state employees in  
12 low-paying occupations. An upward mobility program is one in  
13 which career opportunities are developed and published and  
14 assistance is provided which will allow employees in low-paying  
15 occupations to develop and advance to their highest potential.

16 SEC. 69. Section 19401 of the Government Code is amended  
17 to read:

18 19401. All appointing authorities of state government shall  
19 establish an effective program of upward mobility for employees  
20 in low-paying occupational groups. In developing their upward  
21 mobility programs, appointing authorities shall endeavor to  
22 provide, to the greatest extent possible, the following opportunities  
23 for employees who meet criteria established by the appointing  
24 authority, demonstrate the aptitude or potential for advancement,  
25 and wish to participate in:

26 (a) Career counseling using individual professional,  
27 administrative, and technical employees who can serve as career  
28 models, and a course in group career counseling. Each employee  
29 who wishes to participate in an upward mobility program should  
30 be required to develop a career development plan.

31 (b) Appropriate academic counseling.

32 (c) Training opportunities such as college programs related to  
33 special training programs. This training may include release time  
34 at reduced cost or no cost to the employee and may be offered in  
35 geographically remote areas through cooperative arrangements  
36 with other departments and colleges.

37 (d) Training and development assignments.

38 (e) On-the-job training.

1 (f) Job restructuring, including the development of career ladders  
2 and lattices, and modifications of requirements where employment  
3 barriers exist.

4 SEC. 70. Section 19402 of the Government Code is amended  
5 to read:

6 19402. All upward mobility programs shall include annual  
7 goals that include the number of employees expected to progress  
8 from positions in low-paying occupational groups to entry-level  
9 technical, professional, and administrative positions, and the  
10 timeframe within which this progress shall occur. The Department  
11 of Human Resources shall be responsible for approving each  
12 department's annual upward mobility goals and timetables.

13 Any appointing authority that determines that it will be unable  
14 to achieve the goals may ask the department for a reduction in the  
15 goals. If the department determines that the appointing authority  
16 has not made a good faith effort to achieve the goals, the  
17 department shall hold public hearings to determine the reasons for  
18 the deficiencies and to establish a program to overcome these  
19 deficiencies.

20 SEC. 71. Section 19403 of the Government Code is amended  
21 to read:

22 19403. The department shall, in cooperation with appointing  
23 authorities, establish bridging classifications and career ladders to  
24 provide upward mobility from jobs in low-paying occupations to  
25 technical, professional, and administrative jobs on an ongoing  
26 basis.

27 SEC. 72. Section 19405 of the Government Code is amended  
28 to read:

29 19405. The department shall annually submit a report to the  
30 Legislature on the performance of each appointing authority and  
31 agency in state government in meeting its obligations under this  
32 article.

33 SEC. 73. Section 19574.2 of the Government Code is amended  
34 to read:

35 19574.2. (a) Any party claiming that his or her request for  
36 discovery pursuant to Section 19574.1 has not been complied with  
37 may serve and file a petition to compel discovery with the Hearing  
38 Office of the State Personnel Board, naming as respondent the  
39 party refusing or failing to comply with Section 19574.1. The  
40 petition shall state facts showing that the respondent party failed

1 or refused to comply with Section 19574.1, a description of the  
2 matters sought to be discovered, the reason or reasons why the  
3 matter is discoverable under Section 19574.1, and the ground or  
4 grounds of the respondent's refusal so far as known to the  
5 petitioner.

6 (b) The petition shall be served upon the respondent party and  
7 filed within 14 days after the respondent party first evidenced his  
8 or her failure or refusal to comply with Section 19574.1 or within  
9 30 days after the request was made and the party has failed to reply  
10 to the request, whichever period is longer. However, no petition  
11 may be filed within 90 days of the date set for commencement of  
12 the administrative hearing, except upon a petition and a  
13 determination by the administrative law judge of good cause. In  
14 determining good cause, the administrative law judge shall consider  
15 the necessity and reasons for the discovery, the diligence or lack  
16 of diligence of the moving party, whether the granting of the  
17 petition will delay the commencement of the administrative hearing  
18 on the date set, and the possible prejudice of the action to any  
19 party. The respondent shall have a right to file a written answer to  
20 the petition. Any answer shall be filed with the Hearing Office of  
21 the State Personnel Board and the petitioner within 15 days of  
22 service of the petition.

23 Unless otherwise stipulated by the parties and as provided by  
24 this section, the administrative law judge shall review the petition  
25 and any response filed by the respondent and issue a decision  
26 granting or denying the petition within 20 days after the filing of  
27 the petition. Nothing in this section shall preclude the  
28 administrative law judge from determining that an evidentiary  
29 hearing shall be conducted prior to the issuance of a decision on  
30 the petition. In the event that a hearing is ordered, the decision of  
31 the administrative law judge shall be issued within 20 days of the  
32 closing of the hearing.

33 A party aggrieved by the decision of the administrative law judge  
34 may, within 30 days of service of the decision, file a petition to  
35 compel discovery in the superior court for the county in which the  
36 administrative hearing will be held or in the county in which the  
37 headquarters of the appointing power is located. The petition shall  
38 be served on the respondent party.

39 (c) If from a reading of the petition the court is satisfied that the  
40 petition sets forth good cause for relief, the court shall issue an

1 order to show cause directed to the respondent party; otherwise  
2 the court shall enter an order denying the petition. The order to  
3 show cause shall be served upon the respondent and his or her  
4 attorney of record in the administrative proceeding by personal  
5 delivery or certified mail and shall be returnable no earlier than  
6 10 days from its issuance nor later than 30 days after the filing of  
7 the petition. The respondent party shall have the right to serve and  
8 file a written answer or other response to the petition and order to  
9 show cause.

10 (d) The court may, in its discretion, order the administrative  
11 proceeding stayed during the pendency of the proceeding, and, if  
12 necessary, for a reasonable time thereafter to afford the parties  
13 time to comply with the court order.

14 (e) Where the matter sought to be discovered is under the  
15 custody or control of the respondent party and the respondent party  
16 asserts that the matter is not a discoverable matter under Section  
17 19574.1, or is privileged against disclosure under Section 19574.1,  
18 the court may order lodged with it matters which are provided in  
19 subdivision (b) of Section 915 of the Evidence Code and shall  
20 examine the matters in accordance with the provisions thereof.

21 (f) The court shall decide the case on the matters examined by  
22 the court in camera, the papers filed by the parties, and any oral  
23 argument and additional evidence as the court may allow.

24 (g) Unless otherwise stipulated by the parties, the court shall  
25 no later than 45 days after the filing of the petition file its order  
26 denying or granting the petition; provided, however, that the court  
27 may on its own motion for good cause extend the time an additional  
28 45 days. The order of the court shall be in writing setting forth the  
29 matters or parts the petitioner is entitled to discover under Section  
30 19574.1. A copy of the order shall forthwith be served by mail by  
31 the clerk upon the parties. Where the order grants the petition in  
32 whole or in part, the order shall not become effective until 10 days  
33 after the date the order is served by the clerk. Where the order  
34 denies relief to the petitioning party, the order shall be effective  
35 on the date it is served by the clerk.

36 (h) The order of the superior court shall be final and, except for  
37 this subdivision, shall not be subject to review by appeal. A party  
38 aggrieved by the order, or any part thereof, may within 30 days  
39 after the service of the superior court's order serve and file in the  
40 district court of appeal for the district in which the superior court

1 is located, a petition for a writ of mandamus to compel the superior  
2 court to set aside, or otherwise modify, its order. Where a review  
3 is sought from an order granting discovery, the order of the trial  
4 court and the administrative proceeding shall be stayed upon the  
5 filing of the petition for writ of mandamus; provided, however,  
6 that the court of appeal may dissolve or modify the stay thereafter,  
7 if it is in the public interest to do so. Where the review is sought  
8 from a denial of discovery, neither the trial court's order nor the  
9 administrative proceeding shall be stayed by the court of appeal  
10 except upon a clear showing of probable error.

11 (i) Where the superior court finds that a party or his or her  
12 attorney, without substantial justification, failed or refused to  
13 comply with Section 19574.1, or, without substantial justification,  
14 filed a petition to compel discovery pursuant to this section, or,  
15 without substantial justification, failed to comply with any order  
16 of court made pursuant to this section, the court may award court  
17 costs and reasonable attorney fees to the opposing party. Nothing  
18 in this subdivision shall limit the power of the superior court to  
19 compel obedience to its orders by contempt proceedings.

20 SEC. 74. Section 19582 of the Government Code is amended  
21 to read:

22 19582. (a) Hearings may be held by the board, or by any  
23 authorized representative, but the board shall render the decision  
24 that in its judgment is just and proper.

25 During a hearing, after the appointing authority has completed  
26 the opening statement or the presentation of evidence, the  
27 employee, without waiving his or her right to offer evidence in the  
28 event the motion is not granted, may move for a dismissal of the  
29 charges.

30 If it appears that the evidence presented supports the granting  
31 of the motion as to some but not all of the issues involved in the  
32 action, the board or the authorized representative shall grant the  
33 motion as to those issues and the action shall proceed as to the  
34 issues remaining. Despite the granting of the motion, no judgment  
35 shall be entered prior to a final determination of the action on the  
36 remaining issues, and shall be subject to final review and approval  
37 by the board.

38 (b) If a contested case is heard by an authorized representative,  
39 he or she shall prepare a proposed decision in a form that may be  
40 adopted as the decision in the case. A copy of the proposed decision

1 shall be furnished by the board to each party within 10 days after  
2 the board has adopted, modified, rejected, or remanded the  
3 proposed decision. The board itself may adopt the proposed  
4 decision in its entirety, may remand the proposed decision, or may  
5 reduce the adverse action set forth therein and adopt the balance  
6 of the proposed decision.

7 (c) If the proposed decision is not remanded or adopted as  
8 provided in subdivision (b), each party shall be notified of the  
9 action, and the board itself may decide the case upon the record,  
10 including the transcript, with or without taking any additional  
11 evidence, or may refer the case to the same or another authorized  
12 representative to take additional evidence. If the case is so assigned  
13 to an authorized representative, he or she shall prepare a proposed  
14 decision as provided in subdivision (b) upon the additional  
15 evidence and the transcript and other papers that are part of the  
16 record of the prior hearing. A copy of the proposed decision shall  
17 be furnished to each party. The board itself shall decide no case  
18 provided for in this subdivision without affording the parties the  
19 opportunity to present oral and written argument before the board  
20 itself. If additional oral evidence is introduced before the board  
21 itself, no board member may vote unless he or she heard the  
22 additional oral evidence.

23 (d) In arriving at a decision or a proposed decision, the board  
24 or its authorized representative may consider any prior suspension  
25 or suspensions of the appellant by authority of any appointing  
26 power, or any prior proceedings under this article.

27 (e) In arriving at a decision or a proposed decision, the board,  
28 in exercising its discretion consistent with its authority under  
29 Section 3 of Article VII of the California Constitution, shall give  
30 consideration and respect to any applicable disciplinary criteria  
31 established pursuant to Section 19573, and the extent to which the  
32 employee's conduct resulted in, or if repeated is likely to result  
33 in, harm to the public service, the circumstances surrounding the  
34 offense or misconduct, and the likelihood of recurrence.

35 (f) The decision shall be in writing and contain findings of fact  
36 and the adverse action, if any. The findings may be stated in the  
37 language of the pleadings or by reference thereto. Copies of the  
38 decision shall be served on the parties personally or by mail.

39 SEC. 75. Section 19583.51 of the Government Code is  
40 repealed.



1 SEC. 76. Section 19586 of the Government Code is amended  
2 to read:

3 19586. Within 30 days after the day a copy of the decision  
4 rendered by the board in a proceeding under this article is served  
5 by the board upon the parties to the decision, either party may  
6 petition the board for rehearing of the decision. The petition for  
7 rehearing shall be in writing and shall contain all of the grounds  
8 upon which a rehearing should be granted.

9 Within 30 days after the filing of a petition for rehearing with  
10 the board, the board shall cause notice thereof to be served upon  
11 the other parties to the proceeding by mailing to each a copy of  
12 the petition for rehearing. The other parties to the proceeding shall  
13 have 20 calendar days from the date of service of a copy of the  
14 petition for rehearing to file with the board and serve upon the  
15 petitioner a response to the petition for rehearing.

16 Within 90 days after service of notice of filing of a petition for  
17 rehearing, the board shall either grant or deny the petition in whole  
18 or in part. Failure to act upon a petition for rehearing within this  
19 90-day period is a denial of the petition.

20 SEC. 77. Section 19630 of the Government Code is amended  
21 to read:

22 19630. An action or proceeding shall not be brought by any  
23 person having or claiming to have a cause of action or complaint  
24 or ground for issuance of any complaint or legal remedy for wrongs  
25 or grievances based on or related to any civil service law in this  
26 state, unless that action or proceeding is commenced and served  
27 within one year after the cause of action or complaint or ground  
28 for issuance of any writ or legal remedy first arose. The person  
29 shall not be compensated for the time subsequent to the date when  
30 the cause or ground arose unless that action or proceeding is filed  
31 and served within 90 days after the cause or ground first arose.  
32 Any petition for a writ challenging a decision of the board shall  
33 be filed within six months of the date of the final decision of the  
34 board.

35 This section shall not be applicable to any action or proceeding  
36 for the collection of salary or wage, the amount of which is not  
37 disputed by the state agency owing that salary or wage.

38 SEC. 78. Section 19680 of the Government Code is amended  
39 to read:

40 19680. It is unlawful for any person:

1 (a) Willfully by himself or herself, or in cooperation with  
2 another person to defeat, deceive, or obstruct any person with  
3 respect to his or her right of examination, application, or  
4 employment under this part or rule.

5 (b) Willfully and falsely to mark, grade, estimate, or report upon  
6 the examination or proper standing of any person examined or  
7 certified under this part or rule, or to aid in so doing, or make any  
8 false representation concerning the same or the person examined.

9 (c) Willfully to furnish to any person any special or secret  
10 information for the purpose of either improving or injuring the  
11 prospects or chances of any person examined, certified, or to be  
12 examined or certified under this part or rule.

13 SEC. 79. Section 19682 of the Government Code is amended  
14 to read:

15 19682. Every person who violates any provision of this chapter  
16 is guilty of a misdemeanor. In accordance with Section 19683,  
17 action may be taken by the appointing power, the department, or  
18 the executive officer of the board may file charges, against a state  
19 employee who violates any provisions of this chapter.

20 SEC. 80. Section 19703 of the Government Code is amended  
21 to read:

22 19703. A recommendation, question, or inquiry under this part  
23 shall not relate to the political or religious opinions or affiliations  
24 of any person, and an appointment to, change in, or removal from  
25 any position under this part or by rule shall not be in any manner  
26 affected or influenced by such opinions or affiliations.

27 SEC. 81. Section 19763 of the Government Code is amended  
28 to read:

29 19763. If the department notifies an officer or employee that  
30 any position has been filled in violation of this part or rule,  
31 demands for the salary or compensation or other emolument of  
32 the position shall not be approved or paid by such officer or  
33 employee except upon the order of a court of competent  
34 jurisdiction.

35 SEC. 82. Section 19764 of the Government Code is amended  
36 to read:

37 19764. Every person who makes a payment of salary,  
38 compensation, or other emolument to any person holding a position  
39 in the state civil service in violation of this part or rule and any  
40 officer or employee who signs, countersigns, or authorizes the

1 signing or countersigning of any warrant for such a payment and  
2 the sureties on their official bonds is liable to the State of California  
3 therefor. An action to recover such a payment may be maintained  
4 in any court of competent jurisdiction of this state, in the name of  
5 the people of the state by the Attorney General or by a resident  
6 citizen, who is assessed for and is liable to pay, or, within one year  
7 before the commencement of such action, has paid a tax in this  
8 state.

9 SEC. 83. Section 19770 of the Government Code is amended  
10 to read:

11 19770. (a) With the exception of Chapter 7.5 (commencing  
12 with Section 400) of Part 1 of Division 2 of the Military and  
13 Veterans Code, this part, rather than provisions of the Military and  
14 Veterans Code, governs leave for military service, rights and  
15 benefits accrued during that service, and reinstatement after that  
16 service, for executive branch employees.

17 (b) For the purposes of this chapter:

18 (1) "Employee" means that term as defined by subdivision (d)  
19 of Section 19815.

20 (2) "Civil service employee" means an employee legally holding  
21 a position in the state civil service.

22 (3) "Exempt employee" means an employee who is exempt  
23 from the state civil service by Section 4 of Article VII of the  
24 California Constitution.

25 SEC. 84. Section 19775 of the Government Code is amended  
26 to read:

27 19775. An employee who is granted a long-term military leave  
28 of absence and who for a period of not less than one year  
29 immediately prior to the effective date active duty begins has had  
30 continuous state service as defined by rule which is not broken by  
31 a permanent separation shall be entitled to receive his or her salary  
32 or compensation for the first 30 calendar days of active duty served  
33 during the absence.

34 SEC. 85. Section 19775.1 of the Government Code is amended  
35 to read:

36 19775.1. An employee who is granted a short-term military  
37 leave of absence for active military duty, but not for inactive duty,  
38 including, but not limited to, scheduled reserve drill periods, and  
39 who for a period of not less than one year immediately prior to the  
40 effective date of active duty has had continuous state service as

1 defined by rule that is not broken by a permanent separation, or  
2 who has had continuous state service immediately prior to the  
3 effective date of active duty not broken by a permanent separation  
4 and sufficient recognized military service that need not be  
5 contiguous to equal one year shall be entitled to receive his or her  
6 salary or compensation for the first 30 calendar days of active duty  
7 served during the absence.

8 An employee who is granted emergency military leave under  
9 Section 19773, shall receive his or her salary or compensation as  
10 a state employee while going to, engaging in, and returning from  
11 the duty. The employee shall not receive his or her salary or  
12 compensation for more than 30 days each time he or she is granted  
13 the emergency military leave.

14 SEC. 86. Section 19775.8 of the Government Code is amended  
15 to read:

16 19775.8. Except as provided in Section 19781, when any person  
17 successfully completes part of an open or promotional examination  
18 but is unable to complete all portions thereof because of entry into  
19 recognized military service, the department or designated  
20 appointing authority shall arrange for him or her to take such  
21 uncompleted portion of the examination, providing application is  
22 made not later than six months after his or her release from military  
23 service. Such right to complete an examination shall not continue  
24 for longer than five years after the date of the examination.

25 If the applicant passes the examination, his or her name shall be  
26 placed on the eligible list that resulted from the original  
27 examination as the list stands at the time his or her name is placed  
28 thereon, provided if his or her rating is sufficiently high for his or  
29 her name to have been included on a certification to a permanent  
30 position while he or she was in the military service had his or her  
31 name been on the list when originally established, his or her  
32 eligibility shall be established, notwithstanding the removal of  
33 names from the original list, pursuant to Section 18901. He or she  
34 shall retain his or her place on such list for three years from the  
35 termination of his or her service with the Armed Forces. A name  
36 thus retained on a list beyond the time other names are removed  
37 from the list, pursuant to Section 18901, shall be removed if the  
38 person refuses to accept appointment to a permanent position after  
39 certification thereto subsequent to his or her discharge from the  
40 Armed Forces.

1 SEC. 87. Section 19775.9 of the Government Code is amended  
2 to read:

3 19775.9. An individual on military leave from either a state  
4 civil service position held under duration appointment, a position  
5 held under an exempt appointment but included in the state civil  
6 service prior to his or her release from military service, or a  
7 position in any federal or other public agency, the functions of  
8 which were transferred to the state prior to his or her release from  
9 military service, who would be eligible for reinstatement or  
10 restoration to his or her position pursuant to Sections 19780 and  
11 19782, shall be permitted to take any regular examination held  
12 while he or she was in the military service, or on military leave,  
13 for the class in which he or she had such appointment and for  
14 which he or she had the minimum qualifications required of  
15 applicants when the examination originally was given, within five  
16 years of the date of the original examination. The department or  
17 designated appointing authority shall arrange for him or her to take  
18 the identical examination if application is made not later than six  
19 months after his or her release from military service or six months  
20 after the effective date thereof, whichever is later. If the applicant  
21 passes the examination, his or her name shall be placed on the  
22 eligible list that resulted from the original examination as the list  
23 stands at the time his or her name is placed thereon. If his or her  
24 rating is sufficiently high for his or her name to have been included  
25 on a certification to a permanent position while he or she was in  
26 the military service had his or her name been on the list when  
27 originally established, his or her eligibility shall be established,  
28 notwithstanding the removal of names from the original list  
29 pursuant to Section 18901. He or she shall retain his or her place  
30 on such list for three years from the termination of his or her  
31 service with the Armed Forces or one year from the date such  
32 eligibility is established, whichever is later, if his or her rating is  
33 sufficiently high for his or her name to have been included on a  
34 certification to a permanent position while he or she was in  
35 recognized military service had his or her name been on the list  
36 when originally established. A name thus retained on a list, beyond  
37 the time other names are removed from the list pursuant to the  
38 provisions of Section 18901, shall be removed if the person refuses  
39 to accept appointment to a permanent position after certification  
40 thereto subsequent to his or her discharge from the Armed Forces.

1 SEC. 88. Section 19776 of the Government Code is amended  
2 to read:

3 19776. If a promotional examination was held while an  
4 employee was on military leave that he or she would otherwise  
5 have been entitled to take, the employee shall be eligible to take  
6 the identical promotional examination within five years of the date  
7 of the original examination. The department or designated  
8 appointing authority shall arrange for him or her to take the  
9 examination within a reasonable time, provided application is made  
10 not later than six months after his or her reinstatement from military  
11 leave. If the employee qualifies in the examination, his or her name  
12 shall be placed on the open and promotional list that resulted from  
13 the original examination, as the list stands at the time his or her  
14 name is placed thereon. If his or her rating is sufficiently high for  
15 his or her name to have been included on a certification to a  
16 permanent position while he or she was in the military service had  
17 his or her name been on the list when originally established, his  
18 or her eligibility shall be established, notwithstanding the removal  
19 of names from the original list pursuant to Section 18901. He or  
20 she shall retain his or her place on the list for three years from the  
21 termination of his or her service with the Armed Forces or one  
22 year from the date the eligibility is established, whichever is later.  
23 A name thus retained on a list, beyond the time other names are  
24 removed from the list pursuant to Section 18901, shall be removed  
25 if the person refuses to accept appointment to a permanent position  
26 after certification thereto subsequent to his or her discharge from  
27 the Armed Forces, or if he or she resigns from state service.

28 SEC. 89. Section 19786 of the Government Code is amended  
29 to read:

30 19786. (a) When a civil service employee has been reinstated  
31 after military service in accordance with Section 19780, and any  
32 question arises relative to his or her ability or inability for any  
33 reason arising out of the military service to perform the duties of  
34 the position to which he or she has been reinstated, the board shall,  
35 upon the request of the appointing power or of the employee, hear  
36 the matter and may on its own motion or at the request of either  
37 party take any and all necessary testimony of every nature  
38 necessary to a decision on the question.

39 (b) If the board finds that the employee is not able for any reason  
40 arising out of the military service to carry out the usual duties of

the position he or she then holds, it shall order the employee placed in a position in which the board finds he or she is capable of performing the duties in the same class or a comparable class in the same or any other state department, bureau, board, commission, or office under this part and the rules covering transfer of an employee from a position under the jurisdiction of one appointing power to a position under the jurisdiction of another appointing power, without the consent of the appointing powers, where a vacancy may be made available to him or her under this part and the rules, but in no event shall the transfer constitute a promotion within the meaning of this part and the rules.

(c) If a layoff is made necessary to place a civil service employee in a position in the same class or a comparable class in accordance with this section, the layoff shall be made under Section 19997.3, provided that no civil service employee who was employed prior to September 16, 1940, shall be laid off as a result of the placing of an employee in the same class or a comparable class under this section.

(d) The board may order the civil service employee reinstated to the department, bureau, board, commission, or office from which he or she was transferred either upon request of the employee or the appointing power from which transferred. The reinstatement may be made after a hearing as provided in this section if the board finds that the employee is at the time of the hearing able to perform the duties of the position.

*SEC. 90. Section 19793 of the Government Code is amended to read:*

19793. By November 15 of each year, the ~~State Personnel Board~~ *Department of Human Resources* shall submit to the Governor, the Legislature, and the Department of Finance a census report that shall include demographic information on employees in the state civil service, based upon the analysis of the data collected pursuant to Section 19792. The report shall specifically include, but not be limited to, identified underutilizations and, where warranted by analysis of the underutilizations, steps taken to ensure equal employment opportunity in the state civil service. The report shall also include information to the Legislature on laws that discriminate or have the effect of discriminating on the basis of race, ethnicity, gender, and disability. The Legislature

1 shall evaluate the equal employment opportunity efforts of state  
2 agencies during its evaluation of the Budget Bill.

3 ~~SEC. 90.~~

4 *SEC. 91.* Section 19798 of the Government Code is amended  
5 to read:

6 19798. In establishing order and subdivisions of layoff and  
7 reemployment, the department, when it finds past discriminatory  
8 hiring practices, may authorize modification of the order of layoff  
9 only if failure to do so would result in ineligibility for a federal  
10 program with a loss of federal funds or if required by federal law  
11 or the United States Constitution.

12 ~~SEC. 91.~~

13 *SEC. 92.* Section 19800 of the Government Code is amended  
14 to read:

15 19800. The Department of Human Resources is hereby vested  
16 with the jurisdiction and responsibility of establishing and  
17 maintaining personnel standards on a merit basis and administering  
18 merit systems for local government agencies where such merit  
19 systems of employment are required by statute or regulation as a  
20 condition of a state-funded program or a federal grant-in-aid  
21 program established under federal laws, including, but not limited  
22 to: the Social Security Act, as amended; the Public Health Service  
23 Act; and the Federal Civil Defense Act, as amended.

24 ~~SEC. 92.~~

25 *SEC. 93.* Section 19801 of the Government Code is amended  
26 to read:

27 19801. For the purposes of administration of state or federally  
28 supported programs under Section 19800, the department shall,  
29 by regulation, establish and maintain personnel standards on a  
30 merit basis for local agencies (including standards of qualifications,  
31 competency, education, experience, tenure, and compensation)  
32 necessary for proper and efficient administration, and to ensure  
33 state conformity with applicable federal requirements.

34 ~~SEC. 93.~~

35 *SEC. 94.* Section 19802 of the Government Code is amended  
36 to read:

37 19802. Nothing in this chapter shall prevent any local agency  
38 from establishing its own merit system and determining thereunder  
39 the personnel standards to be applicable to its employees, but as  
40 to employees engaged in administering state and federally



1 supported programs under Section 19800, such local systems and  
2 standards shall be subject to approval and review by the department  
3 to the extent necessary to qualify for federal funds.

4 ~~SEC. 94.~~

5 *SEC. 95.* Section 19802.5 of the Government Code is amended  
6 to read:

7 19802.5. Notwithstanding Sections 19801 and 19803, and after  
8 the department approves the memorandum of understanding  
9 standards, the department may waive administration of all or part  
10 of a local agency merit system where administration of merit  
11 system standards, including, but not limited to, certification,  
12 appointment and other transactions, layoff and reinstatement,  
13 position classifications, compensation standards, and disciplinary  
14 action are established pursuant to a legally binding memorandum  
15 of understanding negotiated between the local agency governing  
16 board and an employee organization recognized pursuant to  
17 applicable law representing employees engaged in federally  
18 supported programs under Section 19800. Upon request of the  
19 local agency governing board and the recognized employee  
20 organization, such waivers shall be granted on any or all standards  
21 following determination by the department that the provisions of  
22 the memorandum of understanding maintain merit system standards  
23 to the extent necessary to qualify for federal funds. All merit system  
24 standards waivers shall be subject to periodic audit, approval, or  
25 revocation by the department. Upon revocation of a waiver, the  
26 department may require any additional information as a condition  
27 of waiver reinstatement.

28 ~~SEC. 95.~~

29 *SEC. 96.* Section 19803 of the Government Code is amended  
30 to read:

31 19803. The merit system for employees engaged in  
32 administering programs under Section 19800 in a local agency not  
33 administering its own merit system approved under this chapter  
34 shall be administered by the department. The department may  
35 delegate any of its duties under this article to a state department  
36 or agency. This may include, but is not limited to, recruitment,  
37 examination, certification, appointment and other transactions,  
38 position classification, compensation standards, and disciplinary  
39 actions. As part of such administration, the department shall hear  
40 and decide appeals of any applicant for employment or officer or

1 employee from the decision of a local agency affecting the  
2 employment rights of such persons. Any decision rendered in such  
3 an appeal shall be binding upon the local agency.

4 The department may bill the state departments having  
5 responsibility for the overall administration of grant-in-aid  
6 programs for the costs incurred in conducting hearings involving  
7 employees of local agencies not administering their own merit  
8 systems pursuant to this chapter.

9 ~~SEC. 96.~~

10 *SEC. 97.* Section 19804 of the Government Code is amended  
11 to read:

12 19804. In the exercise of functions under this chapter, the  
13 department shall exercise no authority with respect to the selection,  
14 tenure of office, and compensation of any individual employed in  
15 accordance with established standards.

16 ~~SEC. 97.~~

17 *SEC. 98.* Section 19805 of the Government Code is amended  
18 to read:

19 19805. The department shall establish and administer  
20 procedures, including provisions for investigations and hearings,  
21 to determine whether a particular merit system is in conformity  
22 with the standards established or approved by the department  
23 pursuant to Section 19801. In conducting any hearing provided by  
24 such procedures, or in conducting an appeal hearing under Section  
25 19803, the department shall have the same authority as it does in  
26 conducting hearings pursuant to Section 19815.

27 ~~SEC. 98.~~

28 *SEC. 99.* Section 19806 of the Government Code is amended  
29 to read:

30 19806. When the department, after hearing, determines that a  
31 local merit system is not in conformity with the established  
32 standards, it shall notify such local agency and appropriate state  
33 officer in writing of its decision. If the governing body of the local  
34 agency does not bring the system into conformity within 60 days  
35 of notification of the department's decision, or within such longer  
36 period as the department determines, the department shall certify  
37 to the state officer having responsibility for the overall  
38 administration of the program, pursuant to which the grant-in-aid  
39 requiring such merit system was made, that the particular merit  
40 system is not in conformity with established standards.

~~SEC. 99.~~

*SEC. 100.* Section 19807 of the Government Code is amended to read:

19807. Notwithstanding any other law, upon receiving certification of the department, pursuant to Section 19806, the appropriate state officer shall take such action against the local agency as permitted by law or as necessary to obtain compliance without an additional administrative hearing being held by such officer.

~~SEC. 100.~~

*SEC. 101.* Section 19808 of the Government Code is amended to read:

19808. Local agencies shall provide such information and reports relating to merit system administration as are required by the department.

~~SEC. 101.~~

*SEC. 102.* Section 19809 of the Government Code is amended to read:

19809. State departments having responsibility for the overall administration of grant-in-aid programs under Section 19800 shall reimburse the department for all costs incurred by the department in administering this chapter. The department may equitably prorate such costs among such departments.

~~SEC. 102.~~

*SEC. 103.* Section 19811 is added to the Government Code, to read:

19811. (a) To the extent that any regulations adopted to make specific or to carry out the provisions of this article are in conflict with the amendments made to this article or become outdated at any time due to a change in federal or state program requirements, the regulations shall be repealed.

(b) The Legislature further finds and declares that regulations interpreting and making specific this article are only necessary if the regulations are required by federal law.

(c) Requirements imposed on local agencies pursuant to this article shall not be considered regulations or standards of general application and shall not impose any duty on the department to adopt regulations.

1     ~~SEC. 103.~~

2     *SEC. 104.* Section 19815 of the Government Code is amended  
3 to read:

4     19815. As used in this part:

5     (a) “Department” means the Department of Human Resources.

6     (b) “Director” means the Director of the Department of Human  
7 Resources.

8     (c) “Division” means the Division of Labor Relations.

9     (d) “Employee” or “state employee,” except where otherwise  
10 indicated, means employees subject to the Ralph C. Dills Act  
11 (Chapter 10.3 (commencing with Section 3512), Division 4, Title  
12 1), supervisory employees as defined in subdivision (g) of Section  
13 3513, managerial employees as defined in subdivision (e) of  
14 Section 3513, confidential employees as defined in subdivision  
15 (f) of Section 3513, employees of the Legislative Counsel Bureau,  
16 employees of the Bureau of State Audits, employees of the office  
17 of the Inspector General, employees of the Public Employment  
18 Relations Board, conciliators employed by the California State  
19 Mediation and Conciliation Service, employees of the Department  
20 of Human Resources, professional employees of the Department  
21 of Finance engaged in technical or analytical state budget  
22 preparation other than audit staff, intermittent athletic inspectors  
23 who are employees of the State Athletic Commission, professional  
24 employees in the Personnel/Payroll Services Division of the  
25 Controller’s office, and all employees of the executive branch of  
26 government who are not elected to office.

27     ~~SEC. 104.~~

28     *SEC. 105.* Section 19815.6 of the Government Code is amended  
29 to read:

30     19815.6. (a) Notwithstanding the provisions of Sections 11042  
31 and 11043, the chief counsel shall represent the department in all  
32 legal matters in which the department is interested, before any  
33 administrative agency or court of law.

34     (b) The department may charge state agencies and departments  
35 for the actual and necessary costs of legal services rendered by the  
36 legal division in unfair practice cases, representation cases, and  
37 requests for injunctive relief arising pursuant to Chapter 10.3  
38 (commencing with Section 3512) of Division 4 of Title 1, in  
39 grievance arbitration cases arising under negotiated memoranda  
40 of understanding, and in all labor law and personnel matters.

1 (c) In grievance arbitration cases arising pursuant to memoranda  
2 of understanding negotiated pursuant to Sections 3517 and 3517.5,  
3 the department may charge state agencies involved for the actual  
4 and necessary costs of arbitration, including the state's share of  
5 the arbitrator's fees, transcription fees, and other related costs.

6 (d) The department may charge state agencies for their pro rata  
7 share of the actual and necessary costs of negotiating and  
8 administering memoranda of understanding pursuant to Sections  
9 3517 and 3517.5.

10 ~~SEC. 105.~~

11 *SEC. 106.* Section 19816 of the Government Code is repealed.

12 ~~SEC. 106.~~

13 *SEC. 107.* Section 19816.6 of the Government Code is amended  
14 to read:

15 19816.6. All officers and employees of the State Personnel  
16 Board and the Department of Personnel Administration, who, on  
17 the operative date of this part, are serving in the state civil service,  
18 other than as temporary employees, and engaged in the  
19 performance of a function vested in the department shall be  
20 transferred to the department. The status, positions, and rights of  
21 these persons shall not be affected by the transfer and shall be  
22 retained by them as officers and employees of the department  
23 pursuant to the State Civil Service Act, except as to positions  
24 exempt from civil service.

25 ~~SEC. 107.~~

26 *SEC. 108.* Section 19816.12 of the Government Code is  
27 amended to read:

28 19816.12. The department shall establish and maintain in  
29 suitable form an official roster of all persons holding positions  
30 under this part and enter thereupon their names, complete record  
31 of state employment, and other facts prescribed by rule.

32 ~~SEC. 108.~~

33 *SEC. 109.* Section 19818.2 of the Government Code is repealed.

34 ~~SEC. 109.~~

35 *SEC. 110.* Section 19818.4 of the Government Code is repealed.

36 ~~SEC. 110.~~

37 *SEC. 111.* Section 19818.14 of the Government Code is  
38 amended to read:

39 19818.14. The department may designate an appointing power  
40 to allocate positions to the Personnel Classification Plan in

1 accordance with Section 19818.6 and department rule. The  
2 department may audit position allocations. If the department finds  
3 that an appointing power has allocated positions inappropriately,  
4 the department may order corrective action, including, but not  
5 limited to, reallocating positions, voiding lawful personal  
6 transactions, and revoking or restricting the appointing power's  
7 ability to allocate positions. If an appointing power's allocation  
8 authority is revoked, the Department of Finance may transfer a  
9 sufficient number of personnel from the appointing power to the  
10 department to perform the previously delegated work.

11 ~~SEC. 111.~~

12 *SEC. 112.* Section 19822.5 of the Government Code is amended  
13 to read:

14 19822.5. The department shall by rule authorize such  
15 expenditures as are reasonably necessary for the meals, lodging,  
16 or travel of persons who provide nonsalaried assistance to the  
17 department or a designated appointing power in the preparation  
18 or conduct of written or oral examinations.

19 ~~SEC. 112.~~

20 *SEC. 113.* Section 19822.7 of the Government Code is amended  
21 to read:

22 19822.7. (a) There is hereby created in the State Treasury the  
23 Work and Family Fund to which funds shall be allocated from the  
24 amount negotiated in memoranda of understanding between the  
25 state and the recognized employee organization, as defined in  
26 Section 3513, and appropriated by the Legislature, for the 2000–01  
27 fiscal year and subsequent fiscal years.

28 (b) The fund shall be used to establish and maintain work and  
29 family programs for state employees. These programs may include,  
30 but are not limited to, financial assistance to aid in the development  
31 of child care centers administered by either nonprofit corporations  
32 formed by state employees or child care providers, or to provide  
33 grants, subsidies, or both grants and subsidies for child care and  
34 elder care. Other programs may include enhancement or  
35 supplementation of existing employee assistance program services  
36 and other work and family programs.

37 (c) The fund shall be administered by the Department of Human  
38 Resources. The amounts to be allocated and expended from funds  
39 available for compensation shall be determined by the department.

1 (d) Notwithstanding Section 13340, the fund shall be available  
2 for expenditure without regard to fiscal years through June 30,  
3 2005. As of June 30, 2005, the fund shall cease to exist and any  
4 balance in the fund shall revert to the General Fund, unless the  
5 existence of the fund is extended by statute and that statute is  
6 enacted and becomes effective prior to June 30, 2005.

7 ~~SEC. 113.~~

8 *SEC. 114.* Section 19889.4 of the Government Code is repealed.

9 ~~SEC. 114.~~

10 *SEC. 115.* Section 13601 of the Penal Code is amended to read:

11 13601. (a) The CPOST shall develop, approve, and monitor  
12 standards for the selection and training of state correctional peace  
13 officer apprentices. Any standard for selection established under  
14 this subdivision shall be subject to approval by the Department of  
15 Human Resources. Using the psychological and screening standards  
16 approved by the Department of Human Resources, the Department  
17 of Human Resources or the Department of Corrections and  
18 Rehabilitation shall ensure that, prior to training, each applicant  
19 who has otherwise qualified in all physical and other testing  
20 requirements to be a peace officer in either a youth or adult  
21 correctional facility, is determined to be free from emotional or  
22 mental conditions that might adversely affect the exercise of his  
23 or her duties and powers as a peace officer pursuant to the standards  
24 developed by CPOST.

25 (b) The CPOST may approve standards for a course in the  
26 carrying and use of firearms for correctional peace officers that is  
27 different from that prescribed pursuant to Section 832. The  
28 standards shall take into consideration the different circumstances  
29 presented within the institutional setting from that presented to  
30 other law enforcement agencies outside the correctional setting.

31 (c) Notwithstanding Section 3078 of the Labor Code, the length  
32 of the probationary period for correctional peace officer apprentices  
33 shall be determined by the CPOST subject to approval by the State  
34 Personnel Board, pursuant to Section 19170 of the Government  
35 Code.

36 (d) The CPOST shall develop, approve, and monitor standards  
37 for advanced rank-and-file and supervisory state correctional peace  
38 officer and training programs for the Department of Corrections  
39 and Rehabilitation. When a correctional peace officer is promoted

1 within the department, he or she shall be provided with and be  
2 required to complete these secondary training experiences.

3 (e) The CPOST shall develop, approve, and monitor standards  
4 for the training of state correctional peace officers in the department  
5 in the handling of stress associated with their duties.

6 (f) Toward the accomplishment of the objectives of this act, the  
7 CPOST may confer with, and may avail itself of the assistance  
8 and recommendations of, other state and local agencies, boards,  
9 or commissions.

10 (g) Notwithstanding the authority of the CPOST, the department  
11 shall design and deliver training programs, shall conduct validation  
12 studies, and shall provide program support. The CPOST shall  
13 monitor program compliance by the department.

14 (h) The CPOST may disapprove any training courses created  
15 by the department pursuant to the standards developed by CPOST  
16 if it determines that the courses do not meet the prescribed  
17 standards.

18 (i) The CPOST shall annually submit an estimate of costs to  
19 conduct those inquiries and audits as may be necessary to determine  
20 whether the department and each of its institutions and parole  
21 regions are adhering to the standards developed by the CPOST,  
22 and shall conduct those inquiries and audits consistent with the  
23 annual Budget Act.

24 (j) The CPOST shall establish and implement procedures for  
25 reviewing and issuing decisions concerning complaints or  
26 recommendations from interested parties regarding the CPOST  
27 rules, regulations, standards, or decisions.

28 (k) This section shall become operative July 1, 2012.

29 ~~SEC. 115.~~

30 *SEC. 116.* Section 10605 of the Welfare and Institutions Code  
31 is amended to read:

32 10605. (a) If the director believes that a county is substantially  
33 failing to comply with any provision of this code or any regulation  
34 pertaining to any program administered by the department, and  
35 the director determines that formal action may be necessary to  
36 secure compliance, he or she shall inform the county welfare  
37 director and the board of supervisors of that failure. The notice to  
38 the county welfare director and board of supervisors shall be in  
39 writing and shall allow the county a specified period of time, not  
40 less than 30 days, to correct its failure to comply with the law or



1 regulations. If within the specified period the county does not  
2 comply or provide reasonable assurances in writing that it will  
3 comply within the additional time as the director may allow, the  
4 director may take one or both of the following actions:

5 (1) Bring an action for injunctive relief to secure immediate  
6 compliance.

7 Any county that is found to be failing to substantially comply  
8 with the law or regulations pertaining to any program administered  
9 by the department may be enjoined by any court of competent  
10 jurisdiction. The court may make orders or judgments as may be  
11 necessary to secure county compliance.

12 (2) Order the county to appear at a hearing before the director  
13 to show cause why the director should not take administrative  
14 action to secure compliance. The county shall be given at least 30  
15 days' notice of the hearing. The director shall consider the case  
16 on the record established at the hearing and, within 30 days, shall  
17 render proposed findings and a proposed decision on the issues.  
18 The proposed findings and decisions shall be submitted to the  
19 county, and the county shall have the opportunity to appear within  
20 10 days, at a time and place as may be determined by the director,  
21 for the purpose of presenting oral arguments respecting the  
22 proposed findings and decisions. Thereupon, the director shall  
23 make final findings and issue a final administrative decision.

24 (b) If the director determines, based on the record established  
25 at the hearing pursuant to paragraph (2) of subdivision (a), that the  
26 county is failing to comply with laws or regulations pertaining to  
27 any program administered by the department, or if the Department  
28 of Human Resources certifies to the director that a county is not  
29 in conformity with established merit system standards under Part  
30 2.5 (commencing with Section 19800) of Division 5 of Title 2 of  
31 the Government Code, and that administrative sanctions are  
32 necessary to secure compliance, the director may invoke either of  
33 the following sanctions, except that the sanctions shall not be  
34 invoked concurrently:

35 (1) Except for child welfare services programs, withhold all or  
36 part of state and federal funds from the county until the county  
37 demonstrates to the director that it has complied.

38 (2) (A) Assume, temporarily, direct responsibility for the  
39 administration of all or part of any or all programs administered  
40 by the department in the county until the time as the county

1 provides reasonable written assurances to the director of its  
2 intention and ability to comply. During the period of direct state  
3 administrative responsibility, the director or his or her authorized  
4 representative shall have all of the powers and responsibilities of  
5 the county director, except that he or she shall not be subject to  
6 the authority of the board of supervisors.

7 (B) (i) In the event that the director invokes sanctions pursuant  
8 to this section, the county shall be responsible for providing any  
9 funds as may be necessary for the continued operation of all  
10 programs administered by the department in the county. If a county  
11 fails or refuses to provide these funds, including a sufficient amount  
12 to reimburse any and all costs incurred by the department in  
13 directly administering any program in the county, the Controller  
14 may deduct an amount certified by the director as necessary for  
15 the continued operation of these programs by the department from  
16 any state or federal funds payable to the county for any purpose.

17 (ii) In the event of a state-imposed sanction, the amount of the  
18 sanction shall be no greater than the amount of county funds that  
19 the county would be required to contribute to fully match the state  
20 General Fund allocation for the particular program or programs  
21 for which the county is being sanctioned for those programs that  
22 are not Public Safety Programs realigned pursuant to 2011  
23 realignment legislation.

24 (iii) In the event of a state-imposed sanction pursuant to this  
25 paragraph for the Public Safety Programs realigned pursuant to  
26 2011 realignment legislation that are administered by the  
27 Department of Social Services, the amount of the sanction shall  
28 be no greater than the amount of funding originally provided to  
29 the county in the 2011–12 fiscal year for the particular program  
30 from the Protective Services Subaccount within the Support  
31 Services Account of the Local Revenue Fund 2011, as adjusted  
32 by the county's share of the additional incremental funding  
33 provided pursuant to paragraph (2) of subdivision (f) of Section  
34 30027.5 of, paragraph (2) of subdivision (f) of Section 30027.6  
35 of, paragraph (2) of subdivision (f) of Section 30027.7 of, and  
36 paragraph (2) of subdivision (f) of Section 30027.8 of, the  
37 Government Code, the estimated growth funding for the program  
38 from the Support Services Growth Subaccount within the Sales  
39 and Use Tax Growth Account, and any adjustment to the county

1 allocation pursuant to subdivisions (a) and (b) of Section 30029.5  
2 of the Government Code.

3 (c) (1) The department is authorized to conduct or have  
4 conducted audits and reviews in order to meet its obligations for  
5 child welfare programs and to ensure the protection of children  
6 and families.

7 (2) Except for cases in which there is a risk of immediate harm  
8 to a minor, the department shall provide the county with at least  
9 30-calendar days' notice of the department's intent to perform an  
10 audit or review. This notice shall include the intended purpose,  
11 scope, and timing of the audit or review.

12 (3) The county shall have an opportunity to respond to the audit  
13 or review and may request an extension of up to 30 calendar days,  
14 that shall be granted by the director if there is good cause and  
15 unless there is a risk of immediate harm to a minor. The request  
16 for extension shall be submitted to the department within 10  
17 business days of receipt of the audit or review notice. The  
18 department, in consultation with the California State Association  
19 of Counties, shall develop a definition of good cause for the  
20 purposes of this section.

21 (4) Nothing in the notice required by paragraph (2) shall be  
22 construed to limit the authority of the department under federal or  
23 state law to examine other information or records should that  
24 become prudent or necessary during the course of the audit or  
25 review.

26 (5) The county shall be presented with the audit or review  
27 findings at the conclusion of the audit or review. The county shall  
28 have 10 business days to provide a written response to the audit  
29 or review findings. The department shall have 10 business days  
30 thereafter to issue a final response to the county's written response.  
31 Both the county response and the department's written response  
32 shall be published as part of the audit or review and made final.

33 (6) The audit or review shall not result in a fiscal sanction to  
34 the county, as defined in subdivision (b).

35 (7) The department may impose a fiscal disallowance if there  
36 is a finding of misappropriation of funding, and the county shall  
37 be afforded due process as specified in subdivision (d).

38 (d) (1) If the audit or review specified in subdivision (c) results  
39 in a fiscal disallowance, the county may request a hearing within  
40 30 calendar days of the notice of sanction or finalized audit or

1 review. The hearing request shall be in writing and shall be known  
2 as the Statement of Disputed Issues, which shall set forth the issues  
3 in dispute, and the county's contentions as to those issues, including  
4 any documentation to support the county's contentions. The hearing  
5 shall take place before a hearing officer designated by the director  
6 to examine any disputed audit or review finding.

7 (A) Following the hearing, the hearing officer shall submit the  
8 proposed final audit or review of the findings to the director. The  
9 director may take any of the following actions:

10 (i) Adopt the proposed findings with or without reading the  
11 record. The findings shall be final upon adoption by the director.

12 (ii) Reject the proposed findings and have findings prepared  
13 based upon the documentation presented at the hearing.

14 (iii) Refer the matter back to the hearing officer to receive  
15 additional information and prepare new findings.

16 (B) The final audit or review of the findings shall include the  
17 county's Statement of Disputed Issues, including its accompanying  
18 documentation. The final audit or review of the findings shall be  
19 subject to judicial review.

20 (e) Nothing in this section shall be construed as preventing the  
21 department from bringing an action for writ of mandamus or any  
22 other action in court as may be appropriate to ensure no interruption  
23 in the provision of benefits to any person eligible therefore under  
24 federal law, the provisions of this code or the regulations of the  
25 department.

26 (f) (1) Nothing in this section shall be construed as relieving  
27 the board of supervisors of the responsibility to provide funds  
28 necessary for the continued services required by law.

29 (2) Nothing contained in this section shall be construed as  
30 preventing a county from seeking judicial review of action taken  
31 by the director pursuant to this section under Section 1094.5 of  
32 the Code of Civil Procedure or, except in cases arising under  
33 Sections 10962 and 10963, from seeking injunctive relief when  
34 deemed appropriate.

35 ~~SEC. 116.~~

36 *SEC. 117.* Section 10801 of the Welfare and Institutions Code  
37 is amended to read:

38 10801. A county director shall be appointed in each county by  
39 the board of supervisors or other agency designated by county

1 charter, subject to either local merit system standards or to  
2 standards prescribed under the merit system required by state law.  
3 The county director shall at all times be under the general  
4 direction and supervision of the board of supervisors, unless  
5 otherwise provided by county charter.

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